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LOCAL OPTION

AND

Temperance Legislation in Ohio,

BY I. W. QUINBY.

COLUMBUS, O.:
COTT & HANN, PUBLISHERS,
1880.

HISTORY OF

LOCAL OPTION

AND

Temperance Legislation in Ohio,

WITH THE SPEECHES AND VOTE

ON THE

QUINBY LOCAL OPTION BILL

IN THE SIXTY-THIRD GENERAL ASSEMBLY.

Rep C. H. Quinby

See other copies

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5-5-93.

CONTAINING ALSO

LIQUOR STATUTES OF OHIO NOW IN FORCE,

COPIES OF PROPOSED LOCAL OPTION BILLS,

AND MUCH OTHER LEGAL MATTER PERTAINING TO THE TEMPERANCE QUESTION.

COLUMBUS, O.:
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PREFACE.

LOCAL Option in the sale, or non-sale of liquors, to be determined by the electors of the townships, or villages, is, to-day, attracting more attention than any other one question in the State.

Not only is the traffic objectionable and iniquitous in the eyes of the moral classes alone, but by the increasing number of criminal prosecutions in our Courts, and the crowded condition of all of our penal and reformatory institutions, it has become very obnoxious and expensive to the taxpayers, who have to foot the bills.

The people are determined to be heard upon this question. Many have believed, and yet believe, that the necessary legislation may be secured through existing political parties. Should this hope not be realized in due time, there may be a rapid disintegration and dissolving of present parties, and the building up of a party that will give heed to the voice of the people on this question. Patience sometimes ceases to be a virtue. It ought not to be made a party question. It ought to be kept on a higher plane than a political one—in a purer atmosphere.

At the suggestion of friends interested in the question, this little volume has been prepared. It has been done hastily, in such hours as could be spared from other labors.

Imperfections may be discovered. If so, let them be kindly passed by without criticism.

It contains a brief history of the struggle for Local Option in the Ohio Legislature in 1879, and the speeches made in the House of Representatives in the first day's debate on the bill. Also, the Liquor Statutes of Ohio, and something of their history, a brief consideration of the Question of Taxation on the Sales of Liquors, and other information that may prove to be useful. The Bills proposed by Hon. G. T. Stewart and Judge Thompson are presented in an Appendix.

It was thought best to limit its size, and publish it in pamphlet form, that the price might prove no hindrance to its circulation.

THE AUTHOR.

WILMINGTON, O., February 4, 1880.

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LOCAL OPTION

AND

TEMPERANCE LEGISLATION IN OHIO.

CHAPTER I.

INTRODUCTORY.

THE imperfect execution of the present temperance laws of the State, and the unsatisfactory results obtained in their enforcement, has brought about a feeling on the part of a large majority of the people, that there should be some more practical form of Temperance legislation. Especially is this feeling strong in all rural communities, and in the villages.

Since the amendment to Section 199, of the Municipal Code by the legislature in April, 1875, by which city and village councils were shorn of their power of restraining and prohibiting ale, beer, and porter houses and shops, this feeling has been greatly intensified. That amendment struck down at one blow, all the McConnellsville ordinances in the State. That section of the statute left an optionary power with city and village councils to adopt ordinances, restraining and prohibiting the keeping of ale, beer, and porter houses or shops, and places of notorious and habitual resort for tippling and intemperance. This power was local to each village and had been exercised or not as a majority of the council might determine. Elections of members of the council in many villages were closely looked after. Their views in regard to the establishment or enforcement of these ordinances were

carefully inquired into by their fellow citizens. Those who favored the ordinances, selected men favorable to their enforcement and placed their names upon a ticket. Those who were opposed to their enforcement, selected men and placed their names upon another ticket. The question of the upholding of the ordinances depended upon the result. After an ordinance was once established, it was seldom, however, that a council was elected that had the hardihood to repeal it.

With the enforcement of the ordinances in the villages, the saloon men cast their eyes upon the fair lands that lay outside corporation limits, and went out to possess them. They established beer-gardens and ale shops outside, where councils could not restrain, and marshals could not arrest. They were established, in many unincorporated villages and hamlets, where before, saloons had been unknown. The people of the townships became alarmed. The question suggested itself to them, why not they have a voice, an option, as to whether ale, beer, and porter houses should be established in their midst. Discussion grew upon the subject and local option was demanded by the people. Legislation upon the question was demanded. Local option to the people of a township or county in the State of Ohio, on the sale of liquors was a new question, comparatively.

Under the old constitution, recognizing license, authority by legislative enactment had at times been given to townships to vote upon the question of license. On March 2, 1846, an act was passed by the legislature entitled "An act to regulate the granting of licenses and regulating taverns, in the county of Ashtabula." It provided, that at the annual township elections, for the election of township officers, it was lawful for each elector to write or print on his ticket the word "license," or the words "no license," and it made it the duty of the clerk of the election to count the votes for or against a license and certify the

count to the court of common pleas. And it made it the duty of the court when a majority of the vote cast in any township was in favor of license, at their discretion, to grant or refuse a license to any applicant residing in such township notwithstanding he complied with the provisions of the then existing law, by which licenses were granted; and in case a majority of the vote cast was against license, it made it unlawful for the court to grant a license to any person to retail ardent spirits in such township.

By a general act of the legislature passed February 3, 1845, authority was given to the people in all cases to remonstrate to the court against the granting of license, that might be petitioned for, and made it the duty of the court to consider the same, "whether such remonstrance shall contain any statement of facts other than the general dissent of the remonstrants or not," and on consideration thereof, the court might grant or refuse the license "in its discretion, notwithstanding the applicant may have proved all the qualifications required by law to authorize the court to grant such license." These statutes gave to the people the right to be heard on the question before the court that had authority to grant such licenses. And in the event that the vote of the township was against license, no sales of liquor in less quantity than one quart, could be made.

There was also passed in February, 1847: "An Act regulating the sale of Intoxicating Liquors," which extended in its operations and provisions only to the counties of Cuyahoga, Franklin, Geauga, Lake, Ashtabula, Preble and Marion. By this act the right to grant licenses for the sale of intoxicating liquors was determined by the votes of the qualified electors at the annual township elections. The ballots were to have written or printed thereon the word "license" or the words "no license." If a majority of the electors voted for "no license" it was unlawful for the court or any other authori-

ty whatever, to grant any license to sell intoxicating or spirituous liquors in such township during the year next succeeding the day on which the vote was taken.

This was, substantially, a local option liquor law, but limited in the number of counties in which it had force and effect to those named. By virtue of the authority therein granted sales of liquor were entirely suspended in many of the townships in those counties. By the adoption of the new constitution in 1851, prohibiting the granting of license, this suatute was rendered a nullity, and in the lapse of time since, has been almost forgotten.

Under the license laws of other States, at the present time, the people are to a considerable extent protected from an indiscriminate sale of intoxicants, and the dealer put under bonds that he do not abuse the power granted him.

Under the Statutes of Texas of 1867, no license shall be issued to sell at retail, spirituous, vinous, and other liquors in quantities less than a quart, until the applicant shall give bond with two sufficient sureties in the sum of $1,000, that he shall keep an orderly house, and that he will not permit a sale of intoxicating liquors, to be made to minors under sixteen, nor to students.

In 1876, the Legislature passed a law, which, it is said has been found to be practical and readily enforced in the townships adopting it. Under this law it is made the duty of the County Commissioners, upon petition of one-fourth of the qualified voters of any township, to order an election, to be held on the first Monday in May in each year, to determine whether liquors shall be sold in such township. Those favoring the prohibition of the sale of spirituous liquors in such township shall place upon their ticket the word "license." If a majority of the votes cast favor prohibition, then it shall be unlawful for the County Commissioners to license the sale of spirituous liquors; but if a majority favor the sale, then license may be granted to sell spirituous liquors in such township.

North Carolinia has a somewhat similar law, passed in 1874. Other of the States have laws of more or less similarity, in respect to the granting of license for the sale of intoxicating liquors, beer, ale and wine, depending upon the consent of the people, or village or city councils. In the State of Mississippi, before there can be any sales made, the written consent of the men and women of lawful age must first be obtained, who reside in the town where they propose to sell. Such is also the law in Kansas. The party applying for a license shall present a petition for the same to the proper authorities, signed by a majority of the adult citizens, both male and female, thus giving to women the right to be heard on the question of the sale of intoxicating liquors, from the evil results of which, she is so great a sufferer.

Under the Kentucky Statutes, which took effect December 1, 1873, no Court shall grant a license to any person to keep a tavern who shall be of bad character, or who does not keep an orderly house. He shall also give bond, not to suffer any gaming in his house, or on his premises, nor suffer any scandalous or disorderly behavior in his house. It is also made the duty of the County Attorney to oppose the issuing of improper license. Similar statutes exist in many other States, respecting the granting of licenses.

On March 2, 1873, the Legislature of Pennsylvania passed a local option law on the question of license, making it the duty of the inspectors and judges of elections to receive tickets, having the words "license" or "no license" thereon, which they were required to count and make return to the Clerk of the Court duly certified. And whenever by the return of such elections, it appeared that there was a majority against license, it was not lawful for any court or board of license to issue any license for the sale of spirituous, vinous, malt or other intoxicating liquors, or any admixture thereof, until a

majority of the electors of any county should vote in favor thereof.

This local option statute in Pennsylvania was secured at the instance of the friends of temperance, the liquor men using strenuous efforts to defeat it. It was adopted in forty-one counties of the State, and its results were more favorable than its most sanguine friends had dared to hope. Some of the jails were left without an inmate during the time this law was in operation that gave the people the right to say whether it should be sold, and it was only repealed at the instance and demand of the liquor interests. Whatever sales were made in those counties, while the law was in operation, were made in an illicit and clandestine manner.

Something of the good results of these laws were known to the people of Ohio, and aided in making the question prominent in the State, and increased the desire for a local option law.

It must be borne in mind, however, that in most of the states where local option laws have been agitated and adopted, their organic law recognizes license to traffic therein. It is different in Ohio, since the adoption of the new Constitution in 1851. The question of license or no license cannot be taken into consideration at all, because the Constitution declares very explicitly, that "No license to traffic in intoxicating liquors shall hereafter be granted."

If the people of Ohio were to have local option on the question of the sale or non-sale of liquors—if their voices were to be heard on the question, and be potent for good or evil, it was not to be on the license issue. Yet a local option law of some sort was demanded.

Accordingly, January 13, 1879, a bill was introduced in the House of Representatives by the member from Clinton County, with the following title: "To secure to the citizens of the State of Ohio, local option in the sale of, or the prohibition of the sale of, intoxicating liquors, beer, ale, and wine, except for medicinal purposes." This bill after-

ward became known as the QUINBY LOCAL OPTION BILL.

Its author had for many years been familiar with the liquor statutes of the State, and had witnessed their inefficiency and insufficiency to arrest the tide of intemperance, and the many evils following in its train.

One hindrance to their enforcement was the difficulty of obtaining testimony that was strong enough to warrant a conviction, in cases of their violation. Any one seeking to enforce the statute, must first go before a mayor or justice of the peace and file an affidavit. Upon this being done, a warrant may issue, and the marshal or constable, as the case may be, may make the arrest and bring the defendant into court. The mayor or justice may then proceed to inquire into the alleged violation, and if there is enough evidence to show that the defendant is *probably* guilty, he may be recognized to appear at the next term of the common pleas court. Unless he enter a plea of guilty, he can not be sentenced by the mayor or justice.

The statutes being criminal, in so far as they look to the punishment of the offendor, by a fine or imprisonment, an indictment is necessary before a final trial of a defendant. And once on trial for the offense, after the conclusion of the testimony, before the jury leaves the box, to retire to the jury room, the judge instructs them, that if they find the defendant guilty, it must be on evidence that carries a conviction of guilt to their minds, beyond a reasonable doubt.

It is seldom that the party who drinks the liquor that is sold in violation of the Statute, if brought before the court to testify, is willing to swear positively that it was "intoxicating" liquor. A bystander can not so swear, because he did not taste it himself. He could not well know what kind of liquor it was. To secure a conviction it must be intoxicating liquor.

Less than positive proof will not do. To prove sales of beer or ale is not enough. Of them it is said "they cheer

but do not inebriate." Sales of either, or both, are insufficient to sustain an indictment for selling "intoxicating liquors, to be drank on the premises where sold."

And even if a witness be produced in court who testifies that he saw the defendant sell whisky, and that the same was drank upon the premises where sold, it is a chance, if the defendant's lawyer does not get him to admit by responses to cunningly framed questions, that it might have been some other kind of liquor than intoxicating. He will be asked, Might it not have been beer? Might it not have been ale? Did you taste it? If you did not taste it, how do you know it was intoxicating? Did you see this man sell it? Did it make that man drunk? Was he intoxicated? How do you know he was intoxicated? These are some of the questions usually put for the witness to answer on cross-examination.

The prosecutions to final conviction under the statutes must be made in the Court of Common Pleas, oftentimes after the lapse of six months or a year after the violation of the statute complained of. In the crowded condition of the court dockets in many counties in the State, application for continuances are readily granted. Should the Prosecuting Attorney be unwilling to consent to a continuance, an affidavit is readily procured, on the part of the defendant, setting forth the absence of some material witness, without whose testimony the defendant can not safely proceed to trial. During all this delay, the witnesses on the part of the State, may have gone to parts unknown to the Prosecuting Attorney, or, if remaining, the lapse of time and a treacherous memory may not enable them to testify positively. And thus the prosecution fails.

Beer and ale have been practically free to be sold at any place, since the amendment to Section 199 of the Municipal Code, on March 29, 1875. Until that amendment was made, city and village councils had authority, by ordinance, under Subdivision 5 of said Section, "To reg-

ulate, restrain and prohibit ale, beer and porter houses, or shops, and houses and places of notorious or habitual resort for tippling or intemperance." By virtue of this power to restrain and prohibit, many of the councils of the cities and villages of the State had passed what had become known as McConnellsville ordinances, prohibiting the keeping of within their limits, ale, beer, and porter houses or shops, and places of notorious or habitual resort for tippling or intemperance. These ordinances prescribed heavy penalties for their violation. But by the amendment they were paralyzed of their power to restrain and prohibit, the same sub-division now reading: "To regulate ale, beer and porter houses or shops." With this amendment the ordinances fell, all over the State. Until then, there could be some check placed upon them; since, the reins are loosened and saloons have been opened and established with impunity, under the eyes of the members of councils and within the shadows of the palaces of justice.

With ale and beer on the free list it is much more difficult than before, to successfully prosecute for sales of intoxicating liquor, contrary to law. Evasions of the law are easy. Whisky may be sold over the same counter with ale and beer, and under their shield, with comparative security from detection. Should there be any evidence tending to establish the guilt of the defendant, a doubt in the minds of the jury may be raised by refuting it with testimony showing that possibly it might have been beer only.

The author of this bill, recognizing the uncertainty attending the execution of the present laws, thought much on the subject of how to better them. Thousands of petitioners were asking for temperance legislation. At each session of the Legislature in the Sixty-second General Assembly there had been many petitions presented. It was so in the first session of the Sixty-third, and they

were likely to continue in the second session. Something should be done to check the fearful tide of drunkenness and dissipation that was carrying to destruction each year thousands of the citizens of the State, filling our almshouses with paupers, and piling up costs in criminal cases to be paid by the taxpayers of the counties of the State.

These questions were presented to his mind:

Why not have the prosecutions for offenses under the liquor statutes take place at once, while the testimony could be easily obtained and while the memory of witnesses is fresh?

Why have witnesses taken away many miles from home to testify, at great inconvenience and expense to themselves?

Why have them to attend before the grand jury at all?

Why have them await its sitting?

Why not have the defendant go to trial in the township where he resides?

Why make it necessary to have the jury find him guilty beyond a reasonable doubt?

Why not have a verdict against him on a fair preponderance of evidence?

Why make it a criminal case?

Why not a civil case, to be tried before a justice of the peace and a jury, if demanded?

Why not look to the property of the defendant to satisfy a verdict for damages against him?

Why look to his person?

Why exempt any of his property in, on, or about his saloon from execution, on a judgment against him for a violation of the statute?

Why not take his glasses, his tables, his bottles, his kegs and his barrels to satisfy a judgment against him in damages, for a violation of the statutes?

Why not make the real estate liable on a judgment against him for a violation, where the liquor is sold con-

trary to law, whether owned by him or not, on the principle of the Adair law?

Why not let the electors of a township vote on the question of the sale or non-sale therein of any kind of liquors?

Why not have majorities rule on this question?

Why should a saloon keeper sell my neighbor's son whisky, or beer, or ale, if my neighbor says not?

Why should he sell to the sons of a hundred neighbors, if those neighbors say not?

Who provided for that son in his infancy and boyhood, and educated him for a life of usefulness?

Was it the saloon-keeper or my neighbor?

Who will suffer the greater anguish of heart if my neighbor's son be ruined by the use of strong drink?

Why should my neighbor be deprived of the assistance and society of his son, by the acquired habit of tippling?

These and many other questions presented themselves to the mind of the author, and led to careful reflection as to the best and most practical form of additional Temperance legislation.

Elected to the Legislature, by a constituency second to none other in the State, in intelligence, morality, and temperance, he felt he had a duty to discharge, in this direction, and this bill was carefully matured and drafted by him.

CHAPTER II.

THE QUINBY LOCAL OPTION BILL.

THE bill was introduced in the House and read the first time, on Jan. 15, 1879, and sent to the printer to be printed. It was numbered 619. It afterward came back from the printer, was placed upon the Calendar for a second reading, and on Friday, January 17, was read a

second time and referred to the Committee on Temperance. The following is the bill:

HOUSE BILL NO. 619—BY MR. QUINBY, OF CLINTON COUNTY.

A BILL

To secure the citizens of the State of Ohio local option in the sale of, or prohibition of the sale of, intoxicating liquors, beer, ale, and wine, except for medicinal purposes.

SECTION 1. *Be it enacted by the General Assembly of Ohio*, That it shall be the duty of the trustees of each of the several townships of the State of Ohio, upon the petition in writing of thirty or more of the electors of any township, to them, or the township clerk presented, at least thirty days previous to the first Monday of April, of any year, asking that a vote of the electors of such township may be had upon the question of the sale therein, or the prohibition of the sale therein, of intoxicating liquors, beer, ale and wine, except for medicinal purposes, to call an election of the voters of such township, on the first Monday of April next thereafter, at the usual place of holding elections therein, for the purpose of submitting to the voters of such township the question of the sale of, or the prohibition of the sale thereof, in such township, except for medicinal purposes, intoxicating liquors, beer, ale and wine, notice of which shall be given by posting written or printed notices thereof in at least ten public places in the township, or by publication in some newspaper of general circulation therein, or by both methods.

SEC. 2. It shall be the duty of the judges of the election in such township, on the first Monday in April next following the giving of such notice, to receive from the legally qualified electors of such township, tickets, either written or printed, or partly written and partly printed thereon, the words "For the sale of intoxicating liquors, beer, ale, and wine, in——— township, ———county, Ohio, (filling the blanks with the name of the township and county in which such vote was taken,) or the words "Against the sale of intoxicating liquors, beer, ale, and wine, except for medicinal purposes, in———township ———county, Ohio," (filling the blanks with the name

of the township, and county in which such vote is taken) and to deposit said tickets in a box provided for that purpose by such judges, as is required by law, in the case of other tickets received at other elections held on the first Monday of April each year, and the tickets so received shall be counted by said judges and the clerk or clerks of election of such township, after the closing of the polls, in such manner as is now provided by law for the counting of the tickets cast at other elections held the first of April each year, and announce the result thereof.

SEC. 3. It shall be the duty of the township clerk of such township, within two days thereafter, to enter upon the record book of such township the result of such election, giving the whole number of votes, the number of votes for the sale of intoxicating liquors, beer, ale and wine, in such township, and the number of votes against the sale of intoxicating liquors, beer, ale and wine, except for medicinal purposes, in such township, and to file the poll sheet and tally sheet of such election in his office, together with a copy of the notice of such election, and the notice in writing requesting the vote to be taken.

SEC. 4. If a majority of the tickets voted at the election shall be for the sale of intoxicating liquors, beer, ale and wine, then it shall be lawful to sell intoxicating liquors, beer, ale and wine, in such township, subject to such restrictions, regulations, and penalties as may now exist by statute, or may hereafter be provided thereby; provided, that this act shall not be construed to repeal or effect any special law prohibiting the sale of intoxicating liquors; but if a majority of the tickets voted at such election shall be against the sale of intoxicating liquors, beer, ale and wine, except for medicinal purposes, then it shall be unlawful, after the first day of June next thereafter, to sell intoxicating liquors, beer, ale and wine, within the limits of such township, except on written prescription of a practising physician for medicinal purposes.

SEC. 5. In receiving and counting the votes cast at such election, the judges and clerk or clerks of election of such township shall be governed by the laws of this State regulating township elections; and the penalties of said election laws are hereby extended to and shall apply in full force to the electors voting at such election, and to the judges and clerks thereof in attendance upon elections

held under the provisions of this act; and any expenses incurred by the trustees of such township in giving notice of such election, shall be paid out of the township fund of such township, on their order.

SEC. 6. And in any township where the majority of the votes so cast at such election are against the sale therein of intoxicating liquors, beer, ale and wine, except for medicinal purposes, if any person or persons shall, after the first day of June next succeeding the taking of such vote, either by himself or herself, or by or in the name of any partnership or firm, or company, or by agent, or in any other manner, in any public place, or any place of public resort, or in any saloon, eating-house, bazaar, room, restaurant, tavern, hotel, or inn, keep for sale, or expose to or for sale, or keep for the purpose of giving away, or shall sell or give away any intoxicating liquors, beer, ale and wine, such person shall be liable in the sum of fifty dollars, to be recovered as liquidated damages, for every day after the first day of June next succeeding the day of taking such vote, that he, she, or they may keep for sale, or expose for sale, or keep for the purpose of giving away, any intoxicating liquors, beer, ale, or wine, in a civil action, to be brought in the name of such township against such persons; provided, however, that this act shall not apply to intoxicating liquors, beer, ale, or wines sold at drug stores on the prescription of a practicing physician for medicinal purposes.

SEC. 7. And it shall be the duty of the prosecuting attorney of the county in which said township is situated, at the request of the township trustees, or any two of them, or upon the written request of any twenty electors thereof, or upon his own information, to bring civil suit for damages, either before a justice of the peace of such township, or in the court of common pleas of such county in which such township is situated, against such persons, and ten per cent. of all damages so recovered shall be paid the prosecuting attorney of such county, and ninety per cent. of all damages so recovered, when collected, shall be paid by the clerk of the court in which the same is collected, or by the justice of the peace before whom suit is brought and judgment taken, into the school fund of the township wherein such violation of the statute was made, to be used in the support of the sub-district schools of said town-

ship ; and there may be as many suits brought against any such person or persons as there are daily violations of this act.

SEC. 8. For all damages and costs, assessed against any person or persons, in consequence of the violation of this act, the real estate and personal property of such person or persons, of every kind, without any exception, or without any exemption whatever, shall be liable for the payment thereof ; and such damages with costs of suit shall be a lien on such real estate until paid ; and in case any person or persons shall rent or lease to another, or others, any building or premises to be used or occupied, in whole or in part, for the sale of intoxicating liquors, beer, ale, or wine, or shall permit the same to be so used or occupied in whole or in part, in any township after such vote is taken, and where a majority of the votes so cast are against the sale of intoxicating liquors, beer, and ale therein, such buildings or premises so leased, used or occupied, shall be held liable for and may be sold to pay all damages and costs assessed against any person or persons, occupying such building or premises, and proceedings may be had to subject the same to the payment of any such damages and costs assessed or judgment recovered, which remained unpaid, or any part thereof, either before or after execution shall issue against the property of the person or persons against whom such damages and costs or judgment shall have been adjudged or assessed ; and when execution shall issue against the property so leased or rented, the officer shall proceed to satisfy said execution out of the building or premises so leased or occupied as aforesaid ; and in case such building or premises belongs to a minor, insane person, or idiot, the guardian of such minor, insane person or idiot, who has control of such building or premises, shall be liable and acount to his or her ward for all damages on account of such use and occupation of such building or premises ; and all contracts whereby any building shall be rented or leased, and the same shall be used or occupied, in whole or in part for the sale of intoxicating liquors, beer, ale, or wine, shall be void ; and any judgment taken, before any justice of the peace, for damages and costs under this act may be certified by transcript to the court of common pleas of such county,

and become a lien on real estate, as in other cases by law provided.

SEC. 9. This act shall take effect and be in force after its pasage.

The committee on Temperance consisted of seven members, as follows:

S. S. Wolf, of Hocking; W. D. Tyler, of Wyandot; John Hardy, of Coshocton; B. F. Lovelace, of Hamilton; Harvey Kellogg, of Lucas; Robert Mackey, of Mahoning; and Thomas S. Luccock, of Guernsey.

The seven members of the committee, were divided, politically, as follows: Messrs. Wolf, Tyler, Hardy and Lovelace were Democrats. Messrs. Kellogg and Mackey, Nationals, and Mr. Luccock a Republican. Of the seven there were but two, that favored temperance legislation. Those two were Messrs. Kellogg and Luccock.

CHAPTER III.

WHAT THE NEWSPAPERS HAD TO SAY OF IT.

IMMEDIATELY following the introduction of the bill, many newspapers of the State gave it notice. Some of them published the bill entire, and others gave a full synopsis of it. The provisions of the bill were commended, generally, there being but few adverse, or unfriendly criticisms of it.

In this chapter is given a few extracts from editorials and articles by newspaper correspondents, written and published before the bill was put upon its passage, and while in possession of the Temperance committee.

EDITORIAL FROM THE ATHENS MESSENGER, JAN. 16.

"The local option bill just introduced in the Legislature should meet with the approval of all good citizens."

EDITORIAL FROM THE DAILY GAZETTE, STEUBENVILLE, OHIO.

"The present session of the Legislature is noticeable for the number of petitions presented to it calling for temperance legislation. These petitions come from almost every part of the state, indicating that there is an organized effort on the part of the temperance people to institute reform in our laws pertaining to the sale of liquor. These petitions have called forth a number of bills making decided changes in the liquor laws, the most important of which is, probably, the Local Option bill of Mr. Quinby, Republican member of the House from Clinton county."

A communication was published in the Cincinnati Gazette, written from Pine Grove Furnace, O., under the date of Jan. 20, in which the writer says: "Observing, in the Gazette this week, that a local option bill has been introduced into the House at Columbus, I desire to say that I am entirely in favor of this law, as it refers to townships. We have in our locality one saloon largely patronized, yet three-fourths of those very men who patronize the drinking-shop will favor the removal of liquor from the township, who would not favor its removal from the county. Having taken the pains to inquire of a number of those who like to tipple, they will without exception, favor a local option township law."

The Republican-Democrat, of Portage county, had a long editorial on the bill, a portion of which is as follows: "In another place in this impression of the *Republican-Democrat* is placed for consideration of the people of Portage county the Local Option bill, now pending before the Ohio Legislature. The bill seems to be carefully drawn and to fairly and well cover the ground contemplated by local option, and does not disturb or annul any existing legislation in regard to the sale of liquors. The friends of temperance and of humanity have very liberally petitioned the Legislature for the passage of a law of this kind. The bill has been introduced, and there is a reasonable probability of its passage. All things considered, it seems to be

wise to afford the people this opportunity to discriminate against the sale of intoxicants as beverages." * * * "Local option is the opportunity for our additional safeguard against the evils of the liquor traffic." * * * "The earnestness with which local option has been asked for is a step in the right direction. The people should have it. They should use it to curb and control the liquor traffic—and to save the souls and abilities of men from the curse of the dram shop."

The National Temperance Standard had the following among other words to say of it in its issue of Feb. 3: "We have been taught by past experience that prohibition, as understood by the Prohibition party, is at present impracticable in this State, and our work now, it seems to us, is not to fight for the impracticable, but rather for that prohibition which is practical under a Local Option law, and which would tend by its good effects on the community to lead and educate our people, and so prepare them to adopt the higher platform of total legal prohibition of the liquor traffic in the State; and in this work we shall receive the hearty support of every branch of the Christian Church. The opportunity is now given to obtain a temperance law which could and would be enforced."

The Cleveland Leader, of Feb. 4, in an editorial headed, "The Standard up for Local Option," alluding to the above article quoted from *The Temperance Standard*, had the following:—"A very uncommon sort of sense for the reformers usually represented by such an organ, is manifested by the *National Temperance Standard* of yesterday's issue, in the uplifting of its banner in behalf of the Local Option bill now pending before the Legislature. We read with pleasant surprise the following paragraph." The *Leader* then quotes the above paragraph from the *National Temperance Standard*, and continues its editorial as follows:

"In the judgment, we think of a vast majority of well-wishers of the temperance reforms, and of an increasing

number of those who are active in the work, such a measure offers the only hope of sure and effective relief by the law in any part of a State except, perhaps, in Maine."

"The secrets of success in a local option law are that it brings the questions involved home, in the phrase of Bacon 'to men's business and bosoms'; that it relegates to each community, so large as a township, independent legislation upon matters which vitally affect its people; the preliminary agitation, of the measure, calls the attention of every voter and other person above the age of infancy, to the tremendous ills of intemperance; and that, whatever may be the decision at the polls, a majority of the voters are committed to the enforcement of the law decreed. The absence of the consideration last named has been the chief weakness of prohibitory law. What was everybody's business generally proved to be nobody's. For these reasons, and others equally cogent, we trust that House bill No. 619 may pass the present Legislature."

The *Barnesville Enterprise*, in its issue of Feb. 6, closed a long editorial on the bill thus: "We have no hesitation in saying that the friends of temperance should combine in favor of the passage of this law. It may not be just what every one wants; but it is based upon the will of the people; and it will eventually result in the prohibition of the liquor traffic in one half of the townships of Ohio. The most radical prohibitionist should favor this law on the ground that 'half a loaf is better than no bread.' If this act is made a law, at least seven hundred townships, or one half the State, will adopt a prohibitory law. It of course leaves the large cities at the mercy of the liquor sellers, but on the other hand, it rescues the rural townships and the small towns of the State from the evils of the traffic. With this bill a law, perhaps every township in Belmont county, except one or two, would be protected from the evils of intoxicating drink."

"It is hoped that the temperance people of all shades of opinion will unite in favor of this bill, which is the best, and we might almost say, the only temperance legislation

that will be offered. Do not refuse a part because you can not get all. Let us get prohibition around our own firesides and families if we can, and hope that the entire State may eventually do likewise. This is the opportunity for the people of this region to secure prohibition, and we hope that every temperance man and woman will become an earnest, active advocate of the measure. We have had oceans of talk—let us for once be practicable, and throttle intemperance wherever we can. Let us all work for the passage of the Local Option bill."

The Highland County News, edited by J. L. Boardman, had the following to say of it editorially: "We publish this week the 'Local Option' bill introduced in the Legislature by Mr. Quinby, of Clinton county, and hope it will be carefully read by every temperance man in this county. If this bill becomes a law, in time to be acted on by voters, at the coming April election, there is no doubt that every saloon in Hillsboro and Highland county can be closed and kept closed before the first of July next. And the same result can be brought about in five-sixths of the counties of the State. All that is needed is prompt and vigorous action in circulating petitions in favor of the law, and forwarding them to the Legislature without delay. There ought to be a million signers to these petitions within the next thirty days. The Legislature dare not refuse to pass a law, simply giving THE PEOPLE of each township the right to vote whether liquor shall be sold or not within the township limits. Let every Temperance man and woman in this county sign and circulate the petitions, and in due time they will see the good result of their labors."

The Columbus correspondent of the *Cincinnati Gazette*, writing under the date of Feb. 5 to that paper, said: "The monotony of the presentation of unimportant petitions and remonstrances was broken this morning by the offering of a large number of temperance petitions, most all of which

were worded so as to favor directly the passage of the Quinby local option bill. On these were a total of 1,156 signatures, many of which represented churches of considerable membership, and properly the sentiment of the entire membership, although the names of but voters alone were signed. Coming in such volume, the petitions attracted much more attention than temperance petitions have attracted heretofore, and their influence goes to show the value of a united action in support of this cause urged sometime ago in these columns."

The Rev J. G. Tunison, in a communication in the *Cincinnati Gazette* of Feb. 10, endorsed the bill very strongly. We give the letter in full as it appeared in that paper:

CINCINNATI, Feb. 10, 1879.

To the Editor of the Cincinnati Gazette:

This is a new phase in the temperance work. But is it not commendable? May not the churches of the State of Ohio, of the whole country State by State, bring a moral influence to bear upon the lawmaking power that will be felt for good in reference to the liquor traffic?

The temperance question is both moral and religious in its character. No form of sin is more widely destructive to the souls and bodies of men, or to the well being and doing of families, than drunkenness. No form of sin is a more formidable barrier to the success of the Church in saving men than intemperance in drinks that make drunk. The traffic in such drinks is accompanied by and associated with almost every other form of sin. Hence to strike at intemperance and the cause thereof is to strike the top root of the tree that produces, as its legitimate fruit, nearly all the gross vices that curse society and hinder the salvation of multitudes. Hence if the Church of the present would desire to echo the voice of Him who preached in the wilderness, "Behold how the ax is laid (or aimed) at the root of the tree; every tree that bringeth not forth good fruit is hewn down and cast into the fire." Here is certainly the root of a very evil tree. Let the Church strike the root. The question comes, How to do it? The evil is intrenched under the protection of law. The Constitu-

tion of Ohio says: "there shall be no license for the sale of intoxicating drinks." The result is unlicensed and unlimited trade. The statutes that are in any wise prohibitory in pretension prove practically to be of no consequence in protective power to society. Generally in the hands of pettifoggers and the average juries, these statutory provisions inure to the protection of those who are engaged in the traffic. The cost of enforcement of these prohibitory provisions is so much beyond the benefits resulting, that the law abiding, order loving, in any locality soon tire of conflict. Hence we need legislation to prevent or forbid the traffic in such terms as to put the saddle upon the other horse. Society has worn the saddle, and the men, booted and spurred, have ridden about long enough. The present local option bill (H. B. 619) is a movement in the right direction.

It embodies the true democratic principle of allowing the majority of the people in any township in the State to control as to the existence or tolerance of these dens of sin in the voting precinct.

This bill is the result, in a measure, of the agitation of the subject of the duty of the religious element of the country, as represented in the various church organizations, to come to the front, and, as churches, ask for relief through legislation.

The aim is to separate the question from mere political engineering. These petitioners come as Christians, as lovers of God and humanity, and ask that the matter be thus submitted, and thus saddle the traffic with such penalty as to prevent its existence against the legally expressed will of the majority of the people.

Let the churches of every name in the State *now* just follow the example of those who have reported, showing that this is no party political job, but that the great conservative religious element is moving for redress of grievances in this purely constitutional way, and the present Legislature will see that it is wise to pass H. B. 619, and let it become the law of the State. At least one-half of the townships in the State will at once rid their population of the traffic. * * * * * * *

The following editorial notice from *The Ashtabula Sentinel*, shows the favor with which the bill was received there.

"The petition for a Local Option law, which is being circulated in this village is being, we might say, uniformly signed. The list thus far embraces most of the business and professional men in this place, and it has only commenced on its rounds."

The Columbus correspondent of the *Cincinnati Times*, writing under date of February 26, had the following to say:

COLUMBUS, O., February 26.

The people of Ohio, Christian and Pagan, seem to be unusually alert this year upon the temperance question. Happily for the friends of temperance this activity does not run to the impracticable question of absolute prohibition, but rather to the more practicable system of local option. Ever since the repeal of the law which acquired considerable fame by a local application at McConnelsville, which authorized village councils to regulate and restrain the evils resulting from the sale of intoxicating liquors, there has been more or less talk of this matter of local option, and during the past year this interest has crystalized and taken form in the shape of petitions demanding a law of this character.

Early in the session Mr. Quinby, of Clinton, introduced a bill to secure to the people local option in the sale of intoxicating liquors, beer, wine and ale, except for medicinal purposes. This bill has been brought into more prominence than any bill now before the Legislature, or that has been introduced for some years.

Each morning these paper prayers come in showers—for instance, this morning thirty-six petitions were presented, signed by three thousand seven hundred persons, residents of twenty-three different counties.

The point of these petitions is that they are signed by Republicans, Democrats, Christians and infidel, without regard to party or church affiliation.

The fact that the Prohibition State Convention so far forgot its intolerance as to ask for the passage of this bill is not without its significance. A search through the vast mass of these petitions now in the hands of the Temperance Committee show that the people of Highland, Clinton, Columbiana, Huron, Ashtabula, Belmont and Stark

are the most actively engaged in securing this legislation; and, further, that the signers live largely in small towns, or on farms, and that few residents of large cities seem to have troubled themselves about the matter.

The demand for copies of the bill has been almost unprecedented, and the first edition was exhausted in a few days. Five hundred copies of the bill were then printed, but these were at once called for. Mr. Quinby then secured the printing of an additional two hundred copies, and these have nearly all been sent out.

CHAPTER IV.

THE PEOPLE HEARD FROM.

ALTHOUGH no effort had been made by the author of the bill to secure petitions asking for its passage, it was but a short time before they began pouring in from various localities, praying for its enactment. These were introduced from time to time by the gentlemen representing the respective counties from which they came.

But about two weeks had elapsed, however, after its introduction, until requests by letter, and otherwise, began coming to the author, and also to many of the members, for copies of the bill, and printed headings for petitions. He then procured the printing of several hundred headings for petitions, which were distributed among the members when requested, and sent out from time to time as demanded of him. The following is the form of petition:

To the Senate and House of Representatives of the State of Ohio:

We, the undersigned, legal voters, of———County, Ohio, respectfully ask of you the passage of H. B. No. 619, "To secure to the citizens of the State of Ohio, LOCAL OPTION in the sale of, or prohibition of the sale of intoxicating liquors, beer, ale, and wine, except for

medicinal purposes, on the vote of the electors of the different townships of the State."

This form of petition was also copied largely by newspapers favoring temperance legislation, and in many channels found its way among the people. Like a resistless tide, they soon began flowing in, signed by fifties and hundreds. In some instances, several petitions would be placed in circulation in a township, signed by the people, then collected together and united into one.

It was not an unusual occurrence to see a member with a petition in his possession, ready for introduction, many feet in length. The petition introduced by Mr. Dawson, of Highland county, embraced many in one, and had it been extended, would perhaps have been forty yards in length. The same might be said of the petition introduced by Mr. Oglevee, from Clarke county, the day the bill was under discussion. So great was the demand for the bill, that the first edition was exhausted in a few days. A second edition of five hundred copies was ordered printed by the Clerk of the House, at the request of the author. It was but a short time until these, also, were all gone, and then the author, to supply the demand that was still increasing, got a resolution through the House, authorizing the printing of the third edition. These were soon all gone. Probably never before in the history of the State, was the demand for a bill so universal. Even the liquor dealers became interested, and sent in orders for the bill. One of the Sergeant-at-Arms of the House sent off thirty at one time to Cleveland, to fill an order from there from the liquor dealers and saloon men. All classes of people seemed interested. Learned theologians, college professors, ministers, teachers, lawyers, doctors, merchants, farmers and laborers, all were ready and willing to sign petitions. Those that abstained entirely from the use of liquors, as well as those that used them, alike put down their names. A noted saloon-keeper in one of the county-

seats in the State where a large number of signatures to petitions were taken, put down his name. When asked why he was willing to sign, he replied that a vote by the people on the question was just and fair, and that if the people of the village where he lived voted against the sale, he would close his saloon at once, and quietly acquiesce in their decision. He said he believed in the right of the majority to rule, as well on this question, as any other.

CHAPTER V.

PETITIONS PRESENTED FOR THE BILL.

THE following tabular statement shows the number of petitions, with number of signatures to each, praying for the passage of a local option bill, forty thousand of which were worded, so as to directly allude to, and favor the passage of H. B. 619, by Mr. Quinby:

NAME OF COUNTY.	Number of Petitions.	Number of Signatures.
Adams	6	662
Allen	4	358
Ashland	2	739
Ashtabula	15	1910
Athens	6	598
Belmont	8	1102
Butler	4	522
Brown	3	754
Carroll	6	299
Champaign	3	759
Clarke	7	4952
Clermont	7	480
Clinton	19	1431
Columbiana	8	812
Coshocton	4	608
Crawford	1	606

Petitions Presented—Continued.

NAME OF COUNTY.	Number of Petitions.	Number of Signatures.
Darke	2	362
Delaware	4	279
Erie	1	230
Fayette	3	290
Franklin	2	623
Fulton	2	122
Gallia	2	147
Geauga	2	180
Greene	5	776
Guernsey	6	657
Harrison	7	1133
Highland	4	4464
Huron	9	1121
Jackson	5	536
Jefferson	1	276
Knox	6	728
Lake	2	314
Lawrence	2	166
Licking	5	1281
Logan	1	45
Lorain	10	1212
Lucas	2	236
Madison	7	545
Marion	9	559
Medina	4	324
Meigs	1	111
Miami	3	385
Monroe	2	100
Montgomery	3	702
Morgan	14	1136
Morrow	5	347
Muskingum	1	42
Noble	2	795
Ottawa	3	223
Perry	5	405
Pickaway	1	35
Portage	2	228
Preble	6	515
Richland	1	108

Petitions Presented—Continued.

NAME OF COUNTY.	Number of Petitions.	Number of Signatures.
Shelby	6	745
Stark	4	524
Summit	7	475
Trumbull	7	503
Tuscarawas	1	337
Union	5	592
Warren	16	1340
Washington	10	940
Williams	3	480
Totals	313	44,265

In addition to these, there were presented during the session, ninety-four other petitions signed by 11,787 persons, asking for such appropriate legislation as would protect them from the evils resulting in the manufacture and sale of intoxicating liquors, or for the submission of a constitutional amendment to the people, prohibiting the manufacture and sale of intoxicating liquors, or other forms of temperance legislation, all of which were referred to the committee on Temperance.

CHAPTER VI.

THE BILL ENDORSED AT PUBLIC MEETINGS.

SO greatly were the people interested in the success of the measure, that during its pendency in the Legislature, while in the possession of the Temperance Committee, public meetings were held at various places in the State, warmly endorsing it. Resolutions favoring its passage were adopted and forwarded to the Representatives of the

counties wherein such demonstrations of approval were manifested.

Soon after its introduction, a public meeting was held at the Christian Church, in Wilmington, the county seat of Clinton county, the place of residence of the author of the bill, for the purpose of considering its provisions and taking action in reference to it.

At this meeting there was a general discussion of its legal bearings, and its constitutionality, participated in by I. B. Allen, Esq., F. G. Slone, Esq., Judge A. W. Doan, James M. Vernon, editor of the Wilmington *Journal*, Rev. B. Y. Siegfred, Capt. D. A. Lamb, Col. J. C. Moon, Judge J. H. West. J. G. Outcalt, and others of the prominent citizens of the village.

Near the close of the meeting the following resolutions were offered by Mr. Vernon, which were unanimously adopted:

"WHEREAS, Our Representative, Hon. I. W. Quinby, has offered a bill to the House of Representatives of the Ohio Legislature providing for local option in this State, and

"WHEREAS, We recognize the necessity of the passage of a law to bring about the suppression of the liquor traffic, therefore,

"*Resolved*, That we heartily endorse the bill now pending before the Legislature of our State.

"*Resolved*, That we pledge to our Representative our united support and co-operation in his efforts to secure the passage of the bill in question.

"*Resolved*, That we urge him to use all honorable means to a push this matter to a successful issue, and to show him that we are in earnest upon the subject, we hereby pledge ourselves to make an earnest effort to obtain a long list of signatures to a petition advocating temperance legislation."

A committee of five was appointed to procure petitions for signers.

At about the same time, at a regular Murphy Temperance meeting held one Sunday afternoon at Hillsborough,

which was largely attended, some very important action was taken in favor of the bill.

Judge Thompson addressed the meeting at length, explained the objects and provisions of it, and expressed his conviction that it was the best and most practical Temperance measure yet presented to the people of Ohio. A form of petition was adopted, and an Executive Committee appointed to see to their immediate circulation in town and country, as follows: James W. Doggett, A. W. Thornburg, J. C. Rittenhouse, G. R. Tucker, Josiah Stevenson, J. L. Boardman, J. R. Marshall, Mrs. J. W. Weatherby, Mrs. M. R. Orr, Mrs. R. R. Waddell, Mrs. W. J. McSurely, Mrs. J. K. Dickering and Mrs. C. C. Sams. On the following day the Executive Committee held a meeting and appointed sub-committees, to aid in circulating petitions. These sub-committees were appointed for both town and country, and to their effort is to be attributed, largely, the great success in obtaining signatures in that county, to petitions. Afterward, there were forty-five hundred petitioners' names sent up to the Legislature for the bill, from this county of Highland alone.

Afterward there was an immense citizen's temperance meeting held at Pike's Opera House in Cincinnati, directly favoring Local Option, which was addressed by Mr. Charles W. Rowland, one of Cincinnati's good men, Dr. J. M. Waldron, the noted Methodist Divine, and others. The speeches made, and report of the meeting, are too lengthy to insert here.

On the 11th of Feb. the Quarterly Convention of the W. C. T. U. of Medina county, was held at the M. E. Church at York, in that county. A discussion was had on the bill, then pending in the Legislature, and the following resolutions adopted:

"*Resolved*, That the Local Option Bill of the Hon. I. W. Quinby, of Clinton county, is a measure in the right direction, and if passed by our present Legislature, and

carried out by the people, will curtail the acknowledged great evils of intemperance.

"*Resolved*, That this body ask our Representative, Hon. E. S. Perkins, to use his influence and vote, for its passage.

"*Resolved*, That a copy of this preamble and resolutions be forwarded to our representative at Columbus."

At a meeting of the W. C. T. U. of Clinton County held at Sabina, in the latter part of February, the following resolutions were reported and adopted:

"WHEREAS, We recognize complete prohibition of the liquor traffic, as the finality of our aims, yet believing that we must have 'First the blade, then the ear, after that the full corn in the ear.'

"*Resolved*, That we most warmly endorse House Bill No. 619, now pending before the Legislature, which demands Local Option, and that we extend to Representative Quinby, our greetings and thanks for his courageous and zealous interest in the cause of Temperance, as manifested by the introduction of said bill; and that we pledge ourselves to earnest and immediate efforts to promote its passage."

A copy of these resolutions was delivered to the author of the bill, at Columbus, by Mrs. Mary A. Woodbridge, General Secretary of the Ohio W. C. T. U., signed by Mrs. Rhoda C. Worthington, Pres. of the Clinton County Society, Alice M. Terrell, Sec'y, and sixty-three other ladies of the county. Among the names were those of Caroline E. Harlan, Abigail J. Hadley, Alzina W. Barlow, Ellen P. Browning, Lamson Kibbey, Martha G. Doan, Levina Rhonemus, Caroline Nordyke, and others, whose great devotion to the temperance cause and the relief of suffering humanity, has made them well known in Southern Ohio.

From many other quarters came resolutions of endorsement, but space forbids further mention.

CHAPTER VII.

CONSTITUTIONALITY OF THE BILL.

IT was the constant desire of the author of the bill, during the months he had been reflecting upon the subject, that he might be enabled to draft it in such a manner, that it would be free from any constitutional objection, after it became a law, and at the same time have it practical and effective in its enforcement.

It is well known that the strength of any statute lies in its power of vindicating itself. He wished to make its justification complete, and to avoid the necessity in its enforcement, of taking a fortuitous course through a grand jury, as a prosecutor is compelled to do under existing statutes, with postponed and unsatisfactory results.

As all rights of a defendant under a criminal statute, are most carefully guarded, and the statute under which the prosecution proceeds, strictly construed, he thought to make redress by a civil action in damages, rather than criminal, and look to the property of the defendant for the vindication of the majesty of the law, rather than to the person.

Under a civil statute, a justice of the peace has original jurisdiction in all sums up to one hundred dollars. His jurisdiction is final, unless an appeal be taken. Either party in a civil action, before him, may demand a jury. If dissatisfied with the decision of the justice or the verdict of the jury, either party desiring, can take an appeal, only by giving an undertaking of sufficient magnitude, to amply satisfy a judgment against him in the court above, together with accruing costs.

Under a criminal statute a justice of the peace has no original, final jurisdiction. He can sentence no one, except on a plea of guilty being entered. Redress for offenses against the peace and dignity of the State, must be

sought through the intervention of a grand jury. Complaints may be made before him, by the filing of an affidavit, and he may issue a warrant against the party complained of, and deliver it to a constable, and the officer may bring the party into the magistrate's court. But he can not convict him. He may only inquire into the matter, and if in his estimation an offense heen committed he may recognize the offender to appear at the next term of court of common pleas of the county wherein he resides, to answer in case any bill is found against him by the grand jury.

Under a criminal statute there is no such thing as an appeal. Appeals will not lie form one court to another.

Even in prosecutions for violation of village ordinances appeals will not lie, if the prosecution be commenced by the filing of an affidavit and the issuing of a warrant.

This was expressly decided at the June term of the Common Pleas Court in Clinton county, in 1874, by Judge J. M. Smith, in the case of the village of Blanchester against James Farquhar, wherein Messrs Quinby & Swain were attorneys for the village, and C. P. Baldwin, attorney for the defendant. In this case an affidavit was filed, charging that the defendant had been guilty of violating an ordinance of the village of Blanchester, prohibiting drunkenness. A warant was issued, the defendant arrested, tried and found guilty, and sentenced to pay a fine of five dollars and costs, and to stand committed until the fine and costs were paid. Notice of appeal was given, bond put in, and transcript filed.

A motion was filed to dismiss the appeal, on the ground that the case was not appealable. The court rendered a lengthy decision, dismissing the appeal, from which the following extract is taken:

"Now it is perfectly clear that there is no appeal from the judgment of a Justice of the Peace in a criminal case, and as appeals may be taken from the judgment of a

Mayor only, it is well to enquire what kind of cases these are. In the first place, I think the Legislature has dealt with them as if they were criminal cases. They have provided for the impaneling of juries of twelve men to try persons charged with the infractions of the ordinances.

"The laws now in force give to all villages the right to provide for juries, and when the criminal form of trial is adopted, defendants have the right to demand a trial before such a tribunal."

The court made the distinction herein, between appealable cases and those not appealable, and based its conclusions on the fact that the village ordinances provided for a constitutional jury of twelve men, whereas, there is no provision by law for a jury of twelve men before a justice.

But a question of graver consideration suggested itself in this connection. Would a criminal statute, a statute that had to be enforced by the filing of an affidavit, and the issuing of a warrant against the body of the defendant be held constitutional when left optionary with the majority of the people of a township, by a vote to be taken, whether or not it be called into operation? In other words, can a criminal statute be in force in one part of the state and not another?

That a civil statute can be so called into operation, there are many precedents. Much of what is done by the commissioners of a county in the way of levying taxes, building bridges and the like, depends upon an optional power that they may exercise or not. So with the building of free pikes on petition of a majority living within certain limits, and the assessments of taxes for the purpose. So with establishing ditches, drains and watercourses.

The week following the introduction of the bill in the Legislature, the *Fayette County Herald*, published by Hon. William Milikan, in a lengthy editorial, took up the constitutional question, and discussed it. He therein expressed grave doubts as to its constitutionality, and quoted Section 26, Article 2 of the Constitution in support

thereof. Although friendly to temperance legislation, he argued that under our system of government, the people have delegated the power to make their laws to their Representatives; and that no subsequent vote of the people could change them.

The author in reply thereto, wrote a short article on the constitutionality of the bill in which he took up and discussed the section of the Constitution cited by the *Herald*, and also Sec. 18, Schedule of the Constitution, relating to the question of license. This communication was published in the *Herald*, Feb. 6, with the following editorial notice:

"We call the special attention of our readers to the communication of Hon. I. W. Quinby, on the interesting subject of local option, which will be found on the first page of to-day's Herald. This subject is now exciting a good deal of interest in the State. If anything can be done to check the giant evil of intemperance, it ought to be done, and our law-makers will fail to have discharged their duties to the people and the State, if they fail to use all the means in their official positions to check—if not to prohibit entirely—this terrible evil. Let the people say, through the ballot-box, whether they desire, in their several localities, to throttle the monster vice of this traffic in intoxicating liquors—including the whole family of intoxicants. Certainly, every citizen who believes in the American principle, that 'the majority shall rule,' cannot object to carrying out that principle in the liquor traffic as well as in any other evil that casts its blight upon our State and Nation. It is a Republican principle, and a Democratic principle, recognized and approved by all parties, that 'the voice of the people shall rule.' Then why not allow the people of the townships of Ohio to say, by their votes, whether the traffic in intoxicating liquors shall be prohibited in the townships in which they live, or continued as it is? We have always doubted the power of the Legislature, under the Constitution, to pass a local option law, but in this opinion, we hope we have been mistaken; and if the Legislature has not the constitutional power to do so it certainly ought to have it, and we hope the Courts will

have an opportunity to test the constitutionality of the Quinby local option bill."

The article referred to, is here re-produced in full as it appeared in the *Herald.* It was written at Columbus, Jan. 26, several days previous to its publication, having been received too late for insertion the week previous :

COLUMBUS, O., Jan. 27th, 1879.

EDS. HERALD :

Dear Sirs :—Permit me, through the columns of your valuable paper, to say a few words in regard to the question of Local Option, as proposed by House bill No. 619. I am pleased to know that you approve of the main features of the bill. You say, rightly, that under our present Constitution, "the only thing left for the Legislature to do, is to restrict the traffic." In my view, we cannot have prohibition thereunder, neither license. But we can regulate the traffic therein.

Section 18 of the schedule of the Constitution is as follows: "No license to traffic in intoxicating liquors shall hereafter be granted in this State; but the General Assembly may, by law, provide against the evils resulting therefrom."

It gives authority to "provide against evils resulting therefrom," the 'therefrom' refering to the traffic in intoxicating liquors. Sec. 6 of the Local Option bill would regulate the sale thereof and avoid the constitutional objection to prohibition by excepting that the act shall not apply to intoxicating liquors, beer, ale or wine, sold on the prescription of a practicing physician for medicinal purposes.

I would not be willing however, to affirm that the Legislature does not, under the Constitution, have authority to restrain and prohibit the sale of ale, beer and wine. Authority was given by legislative enactment to city and village councils, throughout the State, under Sec. 199 of the Municipal Code to "regulate, restrain and prohibit

the keeping of ale, beer and porter houses and shops, and places of notorious and habitual resort for tippling and intemperance." Under such authority was passed by many of the village councils throughout the State, what was known as the McConnelsville ordinance, by which the sale of ale, beer and wine was, in fact, not only restrained but prohibited. This ordinance was upheld and sustained in the Supreme Court of the State, in the case of Buckholter against the Incorporated Village of McConnelsville, in 20 O. S., p 308.

If the Legislature could delegate such authority to village councils it can certainly exercise it itself.

In regard to any obstructions to the proposed law being carried into effect, by reason of the provisions of Art. 2, Sec. 25, of the Constitution, and which you quoted, and which I will here quote, I think you are mistaken:

"Sec. 26. All laws of a general nature shall have a uniform operation throughout the State; nor shall any act, except such as relates to public schools, be passed to *take effect* upon the approval of any other authority than the General Assembly, except as otherwise provided in this Constitution."

By the last section of the Local Option bill it is proposed that it shall take effect from and after its passage. So with most of the statutes that are enacted.

You say you "know not by what construction of the above section of the Constitution the Legislature has power to enact a 'local option' law; a law that would depend upon the subsequent vote of a majority of the legal voters within a certain prescribed line for its vitality therein."

Let us see. It is a discretionary power granted, or proposed to be granted by the bill, to the people of the township of the State, to determine by the vote of the electors of each township, whether or not to call into operation the law by which they may restrain the sale of intoxicating

liquors, beer, ale and wine therein, except for medicinal purposes, upon the prescription of a practicing physician. I will now quote from a decision made by the Supreme Court of the State of Ohio, in case of the Cincinnati, Wilmington and Zanesville Railroad Company against the Commissioners of Clinton Co., reported in 1st O. S. Rep. pp. 77 to 105. The decision was made on a very important question that arose in Clinton county. In 1851 an act was passed by the Legislature authorizing the Commissioners of Clinton county to subscribe $200,000 to the railroad, and to issue bonds of the county therefor, which were to be paid by assessment on the property, both real and personal, in eleven of the townships. Two townships of the county were excepted from the operation of the law. The act submitted the question of the subscription to the road, and the issuing of the bonds, to the electors of the eleven townships, for their approval or rejection. The vote was had and carried affirmatively. The subscription of the $200,000 was made, but afterward the Commissioners refused to issue the bonds, on demand of the officers of the road. A suit in mandamus was brought to compel them so to do. The question was raised as to the constitutionality of the act, by reason of the submission of the question of issuing the bonds to the people of the townships.

The Supreme Court, in passing on the act, made use of the following language: "But because such discretion is given are these and all similar enactments to be deemed imperfect and migatory? It would take a bold man to affirm it. In what does this discretion consist? Certainly not in fixing the terms and conditions upon which the act may be performed, or the obligations thereupon attaching. These are all irrevocably prescribed by the Legislature, and whenever called into operation conclusively govern every step taken. The law, therefore, is perfect, final and decisive in all its parts, and the discre-

tion given only relates to its execution. It may be employed or not employed. If employed, it rules throughout; if not employed, it still remains the law, ready to be employed whenever the preliminary condition is performed. The true distinction, therefore, is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objections can be made."

This decision was made under the old Constitution, the spirit of which in this respect, however, was the same as the present.

Again, in the case of the Trustees of Paris township, Union county, against Cherry *et al.*, reported in 8th O. S. Rep. p.p. 565 to 569, this question came before the Court under the section of the present Constitution, heretofore quoted, Sutliff, Judge, deciding the case, in which Judges Swan, Brinkerhoff and Scott concurred. The case was decided before the fifth Judge, Peck, came upon the bench, but the decision being announced afterward. I quote from their decision:

"But it is objected to the sufficiency of the petition that section 30 of the statute (the one under consideration by the court) in requiring a vote, is in conflict with section 26 of Article 2, of the Constitution of the State, providing that no act, except such as relates to public schools, shall be passed to take effect upon the approval of any other authority than the General Assembly, except as otherwise provided in the Constitution. It does not, however, appear that the provision of section 30 of the statute is, either in its letter or spirit, within that provision of the Constitution. The provision of the statute is not that the act shall take effect upon the authority of the township. The vote of the township is rather to be regarded as a condition precedent, upon which, by its provisions, the authority of the trustees depended. If the statute contained a provision, instead of the one ex-

pressed by section 30, that the trustees should not proceed to levy any tax, or make any purchase under said Statute, until the population of the township should amount to a specified number, or until requested by a certain number of taxpayers, it certainly could not properly be said that the law thereby took effect upon the authority of the township, or upon any other authority than that of the General Assembly."

In the syllabus of the case, they placed the following paragraph:

"Held, 1st, That the standing provision requiring such preliminary vote, is not in contravention of the 26th section of the 2d Article of the Constitution of the State."

This seems to be explicit and to the point.

Again, the same question has been decided in a late case, heard at the General Term of the superior Court of Cincinnati, decided in October 1878, wherein Thomas, *et al*, were plaintiffs, against Miles Greenwood, R. M. Bishop *et al*, defendants, before Judges Yaple, Force and Harmon, to test the validity of the issue of the bonds of Cincinnati, by the trustees of the Cincinnati Southern Railroad, for the purpose of constructing the road. The question was raised that the issue of the bonds was submitted to a vote of the people of Cincinnati, and that it was, therefore, in conflict with the question already quoted. But the Court said that "The law took effect from its passage. The question submitted, was whether its provisions should be made available."

This section of the Constitution, by these decisions, seems too well settled to admit of a doubt. The same principle is embodied in many of our statutes.

It is not uncommon that bills passing through both branches of the Legislature take vitality upon the option of other authority than the Legislature. Such is the case with the law prescribing and regulating the duties and authority of county commissioners, in the levying of taxes for certain purposes, the erection of buildings and bridges,

and the like. It is an optional power, resting with them to be put in execution or not, as they may choose. Such too, is the case with township trustees, in putting in operation certain discretionary power with which they are invested. These laws are all of a general nature, taking effect from and after their passage, or on a day certain, but the provisions of which depend upon the option of the commissioners or trustees.

I. W. QUINBY.

Judge James H. Thompson, of Hillsborough, in an article to the Cincinnati *Gazette* of February 1st, had the following to say on the constitutionality of the bill:

"A great mistake has existed in the mind of the advocates of Temperance on the question of Prohibition, under section 18 of the schedule of the Constitution of Ohio, which reads as follows: 'No license to traffic in intoxicating liquors shall hereafter be granted to this State, but the General Assembly may by law provide against the evils resulting therefrom.'

"The mistake consists in this, that one class of men claim that under this clause of the Constitution, as interpreted by the Supreme Court of Ohio, absolute and unlimited prohibitory laws cannot be enacted; and the other class claim that, while it may be true that qualified prohibitory liquor laws may be enacted, they cannot be made efficient.

"The existing, accurate, logical, effective, legal truth is not maintained or developed by either one of these classes of opinions.

"Absolute and unlimited prohibitory liquor laws do exist and are enforced in Ohio *in degree*, and the only question is, to what further *degree* will the General Assembly and the Courts go?

"In 3d Ohio State Reports, (Miller & Gibson) vs. The State, pages 484-5-6) Judge A. G. Thurman, in delivering the opinion of the Court on the constitutionality of the law, says that 'while it was true that such laws did absolutely prohibit and forbid the sale of liquors (1) in any quantity to be drank on the premises, (2) to minors, (3) to drunkards, (4) demands the place where sold, and (5) commands that such place shall be shut up and abated,

nevertheless that 'the laws are not prohibitory, nor do they interfere in any degree with any right of property. They seek to do by constitutional means what the Assembly is expressly authorized to do—'provide against the evils resulting from the traffic in intoxicating liquors.' To this power, intoxicating liquors are expressly subjected by the constitutional provision I have quoted; but were that provision stricken out of the Constitution, the power would yet exist, and for the same reason that it might be declared unlawful to sell poison to a child, or a dagger to a madman, it might be made an offense to sell intoxicating drink to a minor or a drunkard, and for the same reason that any other common nuisance might by law be abated, the business of a common tippling house might be subjected to that fate.

"Again, in 20th Ohio State Reports (Burckholter vs. Village of McConnelsville, page 312-3-4-5) in an opinion of Scott, C. J., the Supreme Court decide that the ordinance of the village of McConnelsville 'to restrain and prohibit ale, beer and porter houses and shops, and houses and places of habitual resort for tippling and intemperance,' passed by the Village Council in September, 1869, was a lawful and constitutional ordinance and could be enforced by law.

"Now, it is irresistibly to be inferred and settled, from the foregoing decisions, that, according to the force and meaning of all language as interpreted by human revision, the General Assembly and the Supreme Court of the State have determined and decreed that naked, unqualified, total prohibition of the sale of intoxicating liquors of any kind to *certain persons at certain times and certain places, and on certain days*, is in perfect accord and consonance with the provisions of the present Constitution of the State. To these *degrees* of prohibition the law has advanced, and now the question is, what other and further degree of prohibition does Mr. Quinby's bill propose? Not one step further than did the McConnelsville ordinance under the then existing municipal law of the State, and which would now be sufficient had not the General Assembly struck out the word "prohibit" after the decision in 20th Ohio State. But Mr. Quinby's bill, in its mode of attaining to the result of the McConnelsville ordinance, differs from the then existing municipal laws in this, to wit:

that by the provisions of his bill, the question of the destruction and extirpation of saloons, tippling houses, ale, beer, and porter houses, is to be submitted in due form of law to the electors of wards, townships, villages, &c., for their approval or disapproval of the execution of the provisions, by a majority vote of the qualified electors at an election to which such question is to be submitted. Is this submission of the question to popular vote for the determination of the execution of the provisions of the Local Option Law, unconstitutional?

"It is not, and I submit the decision of the Supreme Court of Ohio on identical similar questions, as that in the bill involving the execution or non-execution of State or remedial laws dependent on the popular vote, and will say nothing, but will simply refer to the decisions under the following heads: Railroad subscriptions by counties, 1st O. S., page 77, 126; free turnpike subscriptions, 1 and 2 mile laws and ditches and drains, 9th O. S. R., page 540; 11th O. S. R., 520; county seats, 5th O. S. R., pages 497, 524; townships, 8th O. S. R., page 564; animals, 24th O. S. R., page 334; Cincinnati S. R. R. subscription, 21st O. S. R., page 14, and provisions of common school laws in many details of their execution dependent upon the result of the popular vote—all sustaining the execution of the provisions of the bill, according to the vote of the people."

This letter of Thompson's was copied into several papers of the State.

Copies of the lettter of the author of the bill, published in the *Fayette County Herald*, and Thompson's letter were placed in the possession of such of the members as were in doubt as to its constitutionality, which seemed to satisfy them on the question; so much so, at least, that when the bill was under discussion in the House its constitutionality, or unconstitutionality, to the surprise of the author, was never alluded to in the debate.

In addition to the foregoing, the author deems it well to quote from two cases found in the Ohio State Reports, which are of frequent reference in the Courts. The first cited is that of the case of *Miller v. The State*, 3 O. S. p.

475, where the plaintiff in error was prosecuted for a violation of Section 4 of the act of May 1, 1854, entitled, "An act to provide against the evils resulting from the sale of intoxicating liquors in the State of Ohio." Thurman, C. J., in passing upon the question of the constitutionality, says:

"The idea apparently contended for, that the Constitution recognizes an uncontrollable, illimitable right to sell intoxicating liquors, is manifestly erroneous. There is no snch right in respect to any commodity, however harmless, for if there were, how could the various inspection laws, the laws relating to markets, the license laws, the Sunday laws, &c., be sustained? A power of regulation, a power to provide against evils incident to traffic, a power to protect community against the frauds or dangerous practices of trade, is, in a greater or less degree, vested in every government, and certainly the people of Ohio are not wholly without this protection. If to guard against these evils, some restraint upon the traffic is necessary, it may lawfully be imposed, the fact being always born in mind, and always acted upon, that the power is a power to regulate, and not to destroy. To this power, intoxicating liquors are expressly subjected by the constitutional provision I have quoted; (Section 18 of the schedule: 'No license to traffic in intoxicating liquors shall hereafter be granted in this State, but the General Assembly may by law provide against the evils resulting therefrom,') but were that provision stricken out of the Constitution, the power would yet subsist; and for the same reason that it might be declared unlawful to sell poison to a child, or a dagger to a madman, it might be made an offense to sell intoxicating drink to a drunkard; and for the same reason that any other common nuisance might, by law, be abated, the business of a common tippling house might be subjected to that fate."

The second case cited is in regard to the want of authority in a Mayor or Justice of the Peace to take original and final jurisdiction in a criminal case. Reference is hereby made to the case of *Thomas v. Village of Ashland*, in 12

O. S., p. 124, Gholson, C. J., when the Court used the following words:

"When the violation of an obligation is followed by imprisonment, as a punishment, and not as the result of a process of collection, either original or final, it becomes more strictly in the nature of a criminal offense, and the rules which govern criminal procedure in like cases must apply.

"The Constitution, in the second section of the bill of rights, provides that 'the right of trial by jury shall be inviolate,' and in the tenth section, that 'in any trial, in any Court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face; and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district, in which the offense is alleged to have been committed."

"In view of these provisions, it would be a grave question whether the Legislature could create a new offense to be punished by imprisonment, and provide that the trial for such offense should be before a single Judge without a jury."

And then the Court goes on to say that it is satisfied that the Mayor of a village should try a person charged with an offense punishable by imprisonment, and impose the sentence of imprisonment.

The author has been particular upon this point, for the reason that some persons insisted that the bill should have been criminal in its nature, providing for fine and imprisonment instead of an action for damages; and to allay criticism in this respect he has cited the decision of Judge Smith, and the case of *Thomas v. The Village of Ashland.*

CHAPTER VIII.

THE BILL IN COMMITTEE.

AS heretofore stated, the bill had been read the second time in the House and referred to the tender mercies of the Committee on Temperance. What was to be its fate there was not known. All the while petitions, as heretofore shown, had been pouring in, like a deluge, asking for its passage. The author of it went before the committee, explained its provisions throughout, and expected that it would be, at the proper time, reported back to the House. But it was not. Fearing that the committee might strangle it, and refuse to return it to the House, he again went before the committee and insisted that they should make a report, and no longer hold it, and informed some of them privately that if they failed to do so, he would embrace the first favorable opportunity in the House to move to discharge the committee from further consideration of it. This had the desired effect, and on Tuesday, March 4, the House having reached, in its order of business, the Reports of Standing Committees, the Committee on Temperance reported the bill back to the House without recommendation, but with an amendment that it should not apply to "manufacturers nor wholesale dealers in alcoholic liquors," the following being the report of the committee, as submitted by Mr. Kellogg:

"The Committee on Temperance, to whom was referred H. B. No. 619, by Mr. Quinby, 'To secure to the citizens of the State of Ohio, Local Option in the sale of, or prohibition of the sale of, intoxicating liquors, beer, ale and wine, except for medicinal purposes,' having had the same under consideration, report it back without recommendation, with the following amendment. At the end of Section

6, add the following words: 'nor to manufacturers, nor to wholesale dealers in alcoholic liquors.

"S. S. Wolf,
"Thos. S. Luccock,
"Benj. F. Lovelace,
"John Hardy,
"W. D. Tyler,
"H. Kellogg."

This was an unusual form of report on a bill, and showed a lack of harmony in the deliberations of the committee. It avoided on the part of the committee any responsibility for the bill after coming back to the House. Usually, committees are expected to be ready to defend their position, taken in regard to a measure, as either for or against it. It placed the bill in a precarious condition. One of the committee, although present in the House, when the committee had retired to report on the bill, refused to join them, though invited so to do, and as it was his duty to do. He afterward, however, voted for engrossment, as did Messrs. Wolf, Lovelace, Luccock and Kellogg of the committee. It was understood, outside of the committee, at the time, and afterward, that Messrs. Luccock and Kellogg were heartily in favor of the measure, and that the others were opposed to it. This may have been the reason of the committee's singular report, adopted it may have been, as a compromise, in the nature of a jury's report agreeing to disagree. It would have been more courageous however, to have presented a majority and minority report, the one favoring indefinite postponement, the other recommending its passage.

The question first being on the amendment, as reported by the committee, it was adopted, without a division of the House, or the calling of the ayes and nays. The amendment having been agreed to, the question was upon the engrossment of the bill for a third reading, on a day to be fixed by the House. It was a matter of some conjecture with many of the friends of the measure whether

or not the House would engross it. Should the vote on the engrossment be taken *viva voce*, and a division be demanded, and the House should refuse to engross it, the bill would be lost. So it was thought best that the author be heard upon the merits of the bill at that time, and that upon the vote on engrossment the ayes and nays should be demanded, in order that a record might be made.

Accordingly he obtained the floor and delivered the following speech:

CHAPTER IX.

MR. QUINBY'S SPEECH ON THE ENGROSSMENT OF THE BILL.

MR. SPEAKER: It was not my intention to speak upon the merits of the bill, upon the motion to engross it for a third reading.

I had hoped that the committee on Temperance, having had it under consideration for so long a time, would have reported favorably upon it. Especially so, knowing as we do, that hundreds of petitions from different counties of the State, have been introduced here, favoring its passage and referred to that committee. But yesterday there were petitions for it signed by nearly one thousand persons in the aggregate. To-day the flood has been much greater, reaching about five thousand in number. And yet, in the face of these petitions, and in disregard of them, the committee has reported the bill back "without recommendation." I am really surprised that they have ignored them.

I should have been pleased to have had a favorable report. As it is, I am compelled, here and now, to make a fight for the life of the bill, for should the House refuse to engross it, its vitality is gone. And while I do not propose to criticise the action of the committee, I must say

that it would have been no more hazardous to it, had the report been in favor of its indefinite postponement.

Such being the status of the bill, I presume no apology is necessary for the time I shall consume in attempting its vindication, and the removal of the cloud cast upon it by the report.

Mr. Speaker, I shall for a time, attempt to explain in detail the various provisions of the bill, and I feel that the gentlemen holding seats upon this floor, who have so uniformly been courteous to me personally, and attentive to what I may have said, will once more honor me in like manner.

It will be observed that by the first section, it is made the duty of the trustees of the several townships of the State, upon the petition in writing, of thirty or more of the electors of any township, asking that a vote of the electors of such township may be had upon the question of the sale or non-sale therein of the liquors therein mentioned, to call an election, for the purpose of submitting to the voters of such township the question of the sale, or non-sale therein of such liquors, except for medicinal purposes, upon the prescription of a practicing physician. Notice of such election shall be given by posting written or printed notices, in at least ten public places in such township, or by publication in some newspaper of general circulation therein.

By this provision, it will be seen, that at least thirty persons must join in the application for the vote, thus withholding an expression on the question unless there is a reasonable probability of the prohibition being successful in issue joined at the polls. It was thought best to base the demand on a certain number, rather than upon a ratio of the whole number of voters in the township, that there might no uncertainty arise as to the demand being sufficient. Thirty days' notice to the trustees is ample time for them to give ten days' notice of the election.

I have been asked, why fix the first Monday in April as the time for the election? Why not at the October election? I answer that the time stated in the bill is a day now fixed for the people of the townships of the State to assemble for the purpose of choosing township officers; a time when they meet to confer about local affairs. Again, it would save any additional expense in taking such a vote, and at a time when there is a reasonably full vote cast, which might not be the case at a special election.

In section two the form of ballot is prescribed. and the manner of receiving and counting the vote, and it also contemplates the use of a separate ballot-box.

Section three makes it the duty of the township clerk to enter the result of the election, upon the record book of the township, giving the whole number of votes cast, and the number for and against the sale. Also that he shall file the poll-book and tally sheets, together with a copy of the notice of such election. This would avoid any controversy in relation to the facts, should a civil action for damages be brought against any one, and render the proof easy.

Section four, provides that if a majority of the votes cast, shall be for the sale of intoxicating liquors, beer, ale and wine, then it shall be lawful to sell the same in such township, subject to such restrictions, regulations and penalties, as now exist by statute, or may hereafter be provided; but if a majority of such votes be against the sale, that it shall be unlawful to sell, except for medicinal purposes, after the first day of the following June.

Section five makes the penalties of the election laws now in force, regulating township elections, apply in full force at such election, and to the judges as well. It also authorizes the payment of any expenses incurred, out of the township funds.

Section six provides that in any township where the majority of the ballots are against the sale of liquors there-

in, that after the first day of June next following the taking of such vote, if any person shall, by himself or herself, or by or in the name of any partnership or firm, or company, or by agent or otherwise, in any public place, or place of public resort, or in any saloon, eating-house, bazaar, room, restaurant, tavern, hotel or inn, keep for sale, or expose to sale, or keep for the purpose of giving away any intoxicating liquor, beer, ale, or wine, such person or persons shall be liable in the sum of fifty dollars, to be recovered as liquidated damages, for every day that he, she or they, may keep for sale, or expose for sale, or keep for the purpose of giving away, any intoxicating liquor, beer, ale, or wine, in a civil action. Such action shall be brought in the name of the township, against such person or persons, but this act shall not apply to such liquors sold at drug-stores on the prescription of a practicing physician for medicinal purposes.

Some may say, why not make the selling a criminal offense? My answer is, that by a civil action, a justice of the peace, either with or without a jury, as either party may elect, may have final jurisdiction in any sum under three hundred dollars, unless the case be appealed, in which case an appeal bond must be given, sufficient to secure any judgment rendered, with accruing costs, in the Court of Common Pleas. I further answer, that a case would be much more readily prosecuted in the township. Witnesses would not be required to attend at a distance so remote from their homes. The expense of prosecution would be very much lessened, as any one knows who is at all familiar with court proceedings. Again, the case could be immediately tried, while the evidence was fresh and clear in the minds of the witnesses.

It is a fact well known that witnesses become very forgetful sometimes, when called upon to testify in the prosecution of liquor cases.

Again, there would be no expense to the county at

large by reason of calling witnesses to testify before the grand jury. There would be no inconvenience and expense to witnesses, in awaiting the tardy action of the grand-jury. Each township would bear the whole expense of prosecutions, and they would not be saddled on the county at large, to be paid out of the county treasury, as under the present liquor statutes.

Lastly, and much the stronger reason for making it a civil action, rather than a criminal one, is, that in a civil action the jury or the justice, as the case might be, would be required to find only a fair preponderance of the evidence that the defendant had violated the law, while in a criminal case the jury must find the defendant guilty beyond a reasonable doubt.

It will also be noticed that by this section, the *keeping* for sale, or *exposing* to sale is made unlawful. In this lies largely the efficacy of the proposed act.

Heretofore, under all the laws relating to the traffic, an actual sale must be proved and that beyond a reasonable doubt. In this respect the existing liquor statutes are most unjust, weak and unreasonable. It has always been, and yet is, almost impossible to get positive proof of the sale of intoxicating liquor, to be drank upon the premises where sold, or sales to a minor, or to a person in the habit of getting intoxicated. Not because such sales are not made. The party selling may intrench himself behind the statute, as he has a right to do in all criminal cases, by refusing to criminate himself, unless he voluntarily places himself upon the witness stand. The party drinking the liquor is almost always an unwilling witness. No bystander is willing to testify positively that it was intoxicating liquor that the party drank. He did not taste it himself and can not say.

So the present laws build up a barrier to prosecutions, and hedge in, and shield, and protect their violators. If you see a man enter a saloon, and afterward come out

beastly drunk, you cannot, under the law, testify that the saloon-keeper made him so, nor that he keeps intoxicating liquors, although he may have a wagon load of whisky-kegs piled up about the door of his saloon, or a hundred bottles in his windows filled with the fiery liquid.

Under this proposed act it would be competent testimony to prove that the defendant keeps a saloon; that it is a place of public resort; that he exposes to sale therein, or offers for sale, intoxicating liquor, beer, ale or wine; or that he has beer kegs about his door. This would be competent testimony, and might possibly be proven by fifty persons, no one of whom ever saw a man in the act of drinking intoxicating liquors inside the saloon, nor who ever crossed its threshold.

Section seven provides that it shall be the duty of the Prosecuting Attorney to bring a civil suit for damages in the name of such township, before a Justice of the Peace, or in the Court of Common Pleas, and that ten per cent. of all damages recovered shall be retained by him, and ninety per cent. paid into the school fund of the township, which shall be used in the support of the schools of said township; and that there may be as many suits brought as there are daily violations of the statute.

The duty of the Prosecuting Attorney hereunder would be analagous to his present duties. His fees for collecting would be the same as the law now gives him. Leaving it optionary with any two of the Township Trustees to prosecute would have a tendency to guard against any frivolous or malicious suits. Should the Trustees fail in their duty, and the violation be open and flagrant, then twenty electors may, by written request, order the Prosecuting Attorney so to do.

The question of jurisdiction between the Justices and Common Pleas Courts is undisturbed. It is determined by the amount claimed. The right of appeal from the decision of the Justice, or the verdict of a jury in a Justice's

Court, I do not propose to disturb; but in case of appeal, there must be an undertaking entered into by appellant.

Suppose a party would sell for five successive days after the law was called into operation? Suit might be brought in Common Pleas for two hundred and fifty dollars; or there might be five separate suits before a Justice—one for each day's violation. The bringing of one suit is no bar to another for a violation occurring on a different day. In other words, there may be as many suits brought as there are daily violations of the act.

The damages collected are to go to the school fund of the township prosecuting. Many fines collectable under present statutes go there. To some extent they would reimburse the township for the trouble and expense of prosecutions.

Section eight is in reference to the damages and costs, being a lien on the real estate where sold. Its provisions, in some respects, are very similar in effect to what is known as the Adair Law. It had been found quite effective, until crippled by amendments made subsequently. I wish to simply call the attention of the members to this section. They can find it by referring to their bill-books. I will not consume time by reading it.

The object of this section, as will be seen, is to subject the real estate, with the building thereon, occupied for the purpose of making sale of the liquors, liable for the payment of the judgment and costs rendered.

CHAPTER X.

MR. QUINBY'S SPEECH ON THE ENGROSSMENT OF THE BILL CONTINUED.

MR. SPEAKER:—I have now given a synopsis of the bill, and briefly stated some of the reasons why such provisions should be made. There are a few other

points to which I desire to allude. It may be asked, "Why not make it apply to counties instead of townships, so that the vote would be taken in an entire county at one time?" In answer, I will say that it is better that each township regulate its own affairs in this respect. The vote is more easily taken. If prohibitory, it requires no certifying to any central authority. It is less cumbersome, and more readily enforced. It keeps it out of county politics. It ought not to be made, in my judgment, a political question. I hope it will not be. It is a question pertaining to the morals of a community, the protection of society against an evil influence, against the conduct of evil disposed persons. It is a question in which all order-loving people, all who desire the welfare, happiness, peace, quiet, comfort and prosperity of a community are interested. All who would have society grow better, rather than worse.

It may be said, "Why not enforce it by fine and imprisonment?" I think the amount of damages to be recovered sufficient to deter any one from a violation of the statute. Fifty dollars a day in liquidated damages, with liability in as many suits as there are daily violations, is sufficient punishment. A civil statute is more easily enforced that a criminal one. There would be no necessity for filing an affidavit, nor for issuing a warrant. No arrest of the defendant, no preliminary trial, no binding over to Court to await the sitting of the grand jury. There would be no calling of witnesses before a grand jury; no indictment, with all its technicalities and formalities; no motion to quash indictment. There would be no charge of the Judge to the jury, that they must find the defendant guilty, beyond a reasonable doubt. The prosecution would proceed in a quiet, practical manner, in the township, where the witnesses are near home, and where, on judgment rendered, an execution would issue to the constable, and he would seize upon all the personal property

of the defendant in and about the premises, without exemption, and if insufficient to pay the damages and costs, the judgment might be made a lien on the premises occupied.

Again, it may be asked, "Why do you make the exception allowing these liquors to be sold for medicinal purposes, upon the prescription of a practicing physician?" My answer is, that it may avoid constitutional objection. To bring it within the purview of the Constitution. In my judgment we can not have these under entire prohibition. Not that I would have it so, but that it is so. Neither can we have license. Every statute regulating the liquor traffic must fall between these two extremes. Section 18 of the Schedule to the Constitution was adopted on its submission, by a vote of 113,239 for, and 104,255 against, and became a separate section of Article 15. It reads as follows: "No license to traffic in intoxicating liquors shall hereafter be granted in the State, but the General Assembly may, by law, provide against the evils resulting therefrom." The only thing left for the Legislature to do is to restrict the traffic. We can regulate it. And restricting to sales for medicinal purposes upon the prescription of a practicing physician, is a regulation. I would not be understood, however, as saying that the Legislature does not have the power, under the Constitution, to restrain and prohibit the sale of ale, beer, and wine. The Constitution uses the words "intoxicating liquors." Perhaps beer, ale, and wine, at the time of its adoption were not considered intoxicating. Some do not consider them so now. It is not sought, however, by this bill to make prohibition of the sale of ale, beer and wine. It puts them alongside of intoxicating liquors. I am well aware that there are those who differ with me on this point, and insist that, as a police regulation, we may have prohibition of the sale of intoxicating liquors. That in regulating the traffic we may entirely suspend it. Judge Thurman has

used strong language on this point. I honor him for it. It was in deciding the case of *Miller v. Gibson*, 3 O. S., p.p. 484-5-6. I invite the attention of gentlemen who may differ with me, to that decision. And while he does not say that it may be prohibited, he does say that if restraint is necessary, it may be lawfully imposed, though the Constitution were silent upon it, "for the reason that it might be declared unlawful to sell poison to a child, or a dagger to a madman, it might be made an offense to sell intoxicating drink to a minor or a drunkard; and for the same reason that any other common nuisance might, by law, be abated, the business of a common tippling-house might be subjected to that fate."

I shall not, Mr. Speaker, attempt to go into a consideration of the evils resulting from the trade in intoxicating liquors. The enormity of the evil is known to all of you. I shall not attempt to enumerate the cost to the State in pauperism and crime. Cincinnati, with its two thousand five hundred saloons, making a continuous front of six miles, counting each saloon as occupying ten feet of front, must be mustering an immense army of drunkards, and sending out therefrom in one long, dark, procession, a fearful train of waste, desolation, poverty and crime. Almost every paper brings to us some account of a death caused by drunkenness, some murder or suicide.

I do not expect this bill, if it becomes a law, to stay the tide of intemperance in the cities. It would be futile to vote upon the question there. It is the country districts that are to be profited by it.

In the cities and larger villages, they have police forces, to maintain order and protect individuals from the insults and personal abuse of men maddened by the fiery fluid. They have their council and their Mayor to enforce the ordinances. They are incorporated, and disorder can be suppressed to some extent. They have their work-houses and village prisons to which to sentence offenders. But in

the unincorporated villages, and in the townships they have no such protection. They are without protection almost. There are many of these little villages with from ten to fifty families in each. There are many in each county of the State with post-offices, smith-shops, stores, churches, and school-houses. They are a thrifty, industrious, happy people. Their people are a church-going people. They love God, follow his precepts, and keep his commandments. They are peaceful and quiet in their habits, and want no saloons established in their midst. They want no drunken shouts, no ribald songs, resounding in the streets. *They want protection* from the curse of intemperance. Do you wonder that they send up petitions from the villages and townships, without respect to party, for the pitiful privilege of voting whisky out of them. It is not a question of party with them, it is a question of self-preservation, the leading instinct of man's nature. Preservation of peace, home, happiness, comfort, purity. Preservation of the right to pass through the streets unmolested in person, and without insult to their feelings. Shall we not heed their voices. Let us not spurn their petitions, nor cast them idly aside. Rather let them represent as they do, the active, intelligent, thoughtful minds of the men and women of this State, pleading in earnest and plaintive voices for the privilege of suppressing in their midst, the dens of infamy, corruption and vice, that are dealing out the liquid potions, that are sapping away the manhood of those who frequent them and leading them down to destruction and death.

Fathers, and mothers, and wives, are asking for this measure. To them it means a deliverance from a mighty foe. They are beseeching you! Will you not hear them? Is there no hope, no deliverance! The responsibility rests with us! Let us arouse ourselves to the importance of this occasion! Let us appreciate the duties of this hour, and be brave in the discharge of our duty, and obedient and faithful to the wishes of the masses of

the people of this State, whom we are sent here to represent.

Mr. Speaker, I hope the House will engross the bill and order it to a third reading.

CHAPTER XI.

VOTE ON THE ENGROSSMENT OF THE BILL, AND OTHER MATTERS CONCERNING IT.

THE question being upon the engrossment of the bill, the yeas and nays were demanded, ordered, and resulted—yeas 50, nays 26, as follows:

Those who voted in the affirmative were—

Messrs. *Alexander*, Boyce, Cowgill, *Crosson*, Dawson, Dempcey, *Dodds*, Dow, Edwards, *Elliott*, *Eylar*, Fenton, Forsythe, Foster, *Groschner*, *Haley*, *Hardy* of Coshocton, Herrick, Hitchcock, KELLOGG, Kerr, Leggett, *Levering*, *Lovelace*, Luccock, MACKEY, *McCoy* of Lawrence, Morrey, Oglevee, Paine, Palmer, Perkins, Quinby, *Quinn*, Reed of Trumbull, *Rimer*, Sage, Scott, *Sheets*, Smead, Stubbs, *Sullivan* of Hamilton, Thorp, Townsend, *Trovinger*, *Tyler* of Licking, Wales, Wasson, Williamson, and *Wolf*—50.

Those who voted in the negative were—

Messrs. *Achauer*, *Bohl* of Putnam, *Bull*, *Clough*, *Estill*, *Hardy* of Defiance, *Hendrick*, *Hostetter*, *Hume*, *Johnson*, *Loder*, *Meuser*, *Norton*, *Sawyer*, *Sexton*, *Swaim*, *Turner*, *Tyler* of Wyandot, *Van Cleaf*, *Washburn*, *White*, *Worley*, *Wright*, and *Speaker*—26.

So the motion was agreed to, and the bill ordered to be read the third time Friday next.

Of those voting for engrossment, thirty were Republicans, eighteen Democrats and two Nationals. Twenty-six voting against the bill were all Democrats.

(Republicans in roman, Democrats in italics, Nationals in Small-caps.)

Absent and not voting Messrs. *Baker*, *Booth*, *Brown*,

of Hamilton, Carpenter, *Carter*, Conkright, Covert, Dalzell, *Danford*, *Douglass*, *Dunham*, *Ellis*, Greene, *Guthery*, Harman, *Hart*, *Hayman*, *Jessup*, *Klimper*, Mack, *Marsh*, *Maury*, *McCoy*, of Wayne, *Parker*, *Poe*, *Reed* of Ross, *Seifert*, *Smith*, STURGEON, Sullivan of Miami, *Williams*, 32. Democrats 23 ; Republicans 8 ; Nationals 1.

Afterward, on March 6, Messrs. Sullivan of Miami, Greene and Harman, who had been absent when the vote was taken asked and obtained leave to have their votes recorded upon the motion to engross the bill. Their names being called, they all voted, "aye."

On Thursday, March 6, the bill having been set for third reading on Friday, March 7,

Upon motion of Mr. Quinby, H. B. No. 619 was taken up and set for third reading on Tuesday next, and made the special order for 11 o'clock A. M. of said day.

This was done by the author for a three-fold purpose. First, to give all the members of the House a fair opportunity of being present when the bill came up in the House for passage. Some were absent on committees, others at home on sick leave, and this notice would give them all an opportunity of being present, unless physically incapacitated. Second, to give ardent friends of the measure due notice of the time when it would come up for discussion. Many had written to the author, desiring to be informed of the time, that they might be present. Third, that Friday being near the close of the week, the discussion would probably carry it over until Saturday and there might be a slim House. Besides, it gave opportunity to make the bill a special order for a certain hour. By the rules, a bill having been made a special order, when the hour is reached, the special order takes precedence of any other business before the House.

CHAPTER XII.

THE BILL ON ITS THIRD READING.

ON Tuesday, March 11, at 11 o'clock, the hour for the consideration of the special order having arrived, Mr. Quinby called it up, and the bill was read a third time. So great was the interest manifested in the result of the discussion, and the vote upon the bill, that many of the noted temperance men and women of the State had come to Columbus to hear the debate, and watch its progress and its fate. The sofas on either side of the House were filled with visitors, and the lobby and galleries, with anxious spectators. Both the author of the bill and the Speaker had kept their eyes upon the clock, waiting for the hour to arrive. It was evident that the impending struggle for its passage was to be one of the most exciting and closely contested that had ever taken place in the House. Although its author had all the time hoped that it would not be made a partisan question by the Democratic side, it had been tending strongly in that direction since the vote upon the engrossment the week previous. He had hoped that all would vote upon it from principle, and not from a party standpoint.

As soon as the Clerk commenced reading the bill, the House become unusually quiet and attentive. When it was finished, the author proposed some unimportant amendments in the phraseology of the bill, which were adopted without division. He had hoped that an open, fair and manly discussion might be allowed to take place upon the merits of the bill, and that no effort would be made to weaken or destroy it by amendments.

It is a fact well known among parliamentarians that the most effective way sometimes, to kill a bill by the enemies of it, is by offering amendments, which if adopted would

render it valueless and distorted. In this hope of fair treatment he was to be disappointed, however. So soon as the unimportant amendments had been agreed to, the member from Washington, Mr. Bohl, obtained the floor and moved to amend by making it apply only to Clinton county in its operation as a statute. He made a short sheech in support of the motion, which is herein given in the subjoined report of speeches. Without coming to any vote on the amendment, the discussion proceeded, lasting throughout all of Tuesday and Wednesday, the House taking a recess from Tuesday evening, over until Wednesday morning, so that in the morning the first business after the opening prayer, by Rev. O. J. Nave, was the consideration of the bill with the pending amendment.

Speech after speech was made upon the bill, first by the author of the bill, then by Hardy of Coshocton, Townsend, Oglevee, Alexander, Seifert, Bloom and others. The interruptions of the speakers, by questions from other of the members were frequent, but generally free from asperity. The replies were courteous. The debate raged all day on Wednesday, the House doing no other business, of any consequence, and that only by general consent. The interest of the public in the debate had increased rather than diminished. Great crowds of people stood outside in the lobby. Senators came over from the other branch of the general assembly, and such of the State officers as could escape for a time from business, could be seen among the throng. Finally late in the afternoon of Wednesday, the House reached a vote, first on the motion of Mr. Bohl to refer to a select committee of one to amend.

Those who voted in the affirmative were—

Messrs. Bohl, Bull, Clough, Crosley, Dodds, Groschner, Hardy of Defiance, Johnson, Maury, Poe, Turner, Tyler of Wyandot, Washburn, and Worley—14.

Those who voted in the negative were—

Messrs. Achauer, Alexander, Baker, Bloom, Boyce, Brown of Putnam, Carpenter, Carter, Conkright, Covert, Cowgill, Dawson, Dempcey, Dow, Edwards, Elliott, Ellis, Eylar, Fenton, Forsythe, Greene, Hardy of Coshocton, Hart, Harmon, Herrick, Hitchcock, Hume, Jessup, Kellogg, Kerr, Klimper, Leggett, Levering, Loder, Lovelace, Luccock, Mack, McCoy of Lawrence, McCoy of Wayne, Morrey, Oglevee, Perkins, Quinby, Reed of Trumbull, Rimer, Sage, Scott, Sextro, Sheets, Smead, Stubbs, Sullivan of Hamilton, Sullivan of Miami, Swaim, Thorp, Townsend, Trovinger, Tyler of Licking, Van Cleaf, Wales, Wasson, White, Williamson, and Wright—64.

So the motion was disagreed to.

The author was much gratified at the failure of the amendment and felt like returning a vote of thanks to the members who stood by him, especially those on the opposite side of the chamber.

After another amendment offered by Mr. Sextro, the purport of which it is not worth while to discuss here, as it was voted down, the House at last reached a vote upon the bill, amidst great excitement, and yet, so subdued and quiet that one could almost hear the falling of a pin on the floor. As the call of the ayes and nays was about completed, it became apparent that the bill was defeated, and the lines of disappointment could be traced upon the features of that great audience.

The question being "Shall the Bill pass?" the yeas and nays were ordered, and resulted—yeas 39, nays 44, as follows:

Those who voted in the affirmative were—

Messrs. *Alexander*, *Baker*, Boyce, Conkright, Cowgill, Dawson, Dow, Edwards, *Elliott*, *Eyler*, Fenton, Forsythe, Foster, Greene, Harmon, Herrick, Hitchcock, KELLOGG, Kerr, Leggett, *Levering*, Luccock, Mack, Morrey, Oglevee, Perkins, Quinby, Reed of Trumbull, Sage, Scott, Smead, Stubbs, Sullivan of Miami, Thorp, Townsend, *Tyler*, of Licking, Wales, Wasson, and Williamson—39.

Those who voted in the negative were—

Messrs. *Achauer*, *Bloom*, *Bohl*, *Brown* of Hamilton, *Brown* of Putnam, *Bull*, Carpenter, *Carter*, *Clough*, *Covert*, *Crosley*, *Dodds*, *Ellis*, *Groschner*, *Hardy* of Coshocton, *Hardy* of Defiance, *Hart*, *Hayman*, *Hume*, *Jessup*, *Johnson*, *Klimper*, *Loder*, *Lovelace*, *Maury*, *McCoy*, of Lawrence, *McCoy* of Wayne, *Poe*, *Rimer*, *Seifert*, *Sextro*, *Sheets*, *Sullivan* of Hamilton, *Swaim*, *Trovinger*, *Turner*, *Tyler* of Wyandot, *Van Cleaf*, *Washburn*, *White*, *Williams*, *Worley*, *Wright*, and *Speaker*—44.

So the bill was lost.

Of those who voted for the bill all were Republicans, except—

Messrs. Alexander, Baker, Elliott, Eyler, Levering, and Tyler of Licking. Of all who voted against it all were Democrats, except Covert and Carpenter. The following is a list of those that were absent or present not voting, most of whom were "artful dodgers." Messrs. *Booth*, *Crosson*, Dalzell, *Danford*, Dempcy, *Douglass*, *Estill*, *Guthery*, *Haley*, *Hendrick*, *Hostetter*, MACKEY, *Marsh*, *Meuser*, *Norton*, Paine, Palmer, *Parker*, *Quinn*, *Reed* of Ross, *Sawyer*, *Smith*, STURGEON, *Wolf*.

Of those absent, or present not voting, there were, Republicans, 4; Democrats, 19; Nationals, 2. (Republicans in roman, Democrats in italics, Nationals in small caps.)

Two committees were out by leave of the House at the time of the discussion, one making an investigation at Longview Asylum, with rooms at the Grand Hotel, Cincinnati; the other the committee making some investigation in the Northwestern part of the State on the Beaver Ditch, but the latter returned a short time before the House came to a vote on the bill.

The Chairman of the Temperance Committee, during the time the bill was under discussion, was in and out of his seat, ever ready to dodge when the vote was called, as he afterward did. Another member, after making a speech against the bill, absented himself from the House when the

vote was taken. Others came in after the conflict was over and the bill defeated, and asked and obtained leave to vote against it.

The journal of the House shows Messrs. Sawyer, Marsh and Norton voting against it, afterward, and Mr. Paine for it, though such votes could not effect the result in any manner.

Mr. Carpenter, recorded as voting against the bill, first voted for it and afterward changed his vote to "no" for the purpose of moving a reconsideration, which was afterwards done by Mr. Swaim, who, anticipating the purpose of the change, obtained the recognition of the Speaker, and moved a reconsideration, in order that the House, failing to reconsider the bill, it could not be brought up again, such being the rule of the House.

The question being upon agreeing to the motion, the yeas and nays were ordered, and resulted—yeas 41, nays 41, as follows:

Those who voted in the affirmative were—

Messrs. *Alexander*, *Baker*, Boyce, Carpenter, Conkright, Cowgill, Dawson, Dempcey, *Dodds*, Dow, Edwards, *Elliott*, Fenton, Foster, Greene, Harmon, Herrick, Hitchcock, KELLOGG, Kerr, Leggett, *Levering*, Luccock, Mack, Morrey, Oglevee, Perkins, Quinby, Reed of Trumbull, Sage, Scott, Smead, Stubbs, Sullivan of Miami, Thorp, Townsend, *Tyler* of Licking, Wales, Wasson, and Williamson—41.

Those who voted in the negative were—

Messrs. *Achauer*, *Bloom*, *Bohl*, *Booth*, *Brown* of Hamilton, *Brown* of Putnam, *Bull*, *Carter*, *Clough*, *Crosley*, *Ellis*, *Groschner*, *Hardy* of Coshocton, *Hardy* of Defiance, *Hart*, *Hume*, *Jessup*, *Johnson*, *Klimper*, *Loder*, *Lovelace*, *Maury*, *McCoy* of Wayne, *Poe*, *Rimer*, *Scifert*, *Sextro*, *Sheets*, *Sullivan* of Hamilton, *Swaim*, *Trovinger*, *Turner*, *Tyler* of Wyandot, *Van Cleaf*, *Washburn*, *White*, *Williams*, *Worley*, *Wright*, *and Speaker*—41.

So the motion was disagreed to by an even vote. Had

Mr. Eyler, who voted for the bill, voted to reconsider, the motion would have prevailed.

And thus closed one of the most earnest contests for the right that was ever waged in the Legislative Halls at Columbus.

CHAPTER XIII.

THE DEBATE IN THE HOUSE.

THE following is a stenographic report of the proceedings in the House, including the speeches made thereon, the first day of the debate.

HOUSE OF REPRESENTATIVES.

Tuesday, March 11, 1849—11 o'clock A. M.

House Bill No. 619, by Mr. Quinby, being the special order for this hour, was read the third time, and sundry amendments of the phraseology thereof made on motion of the author.

MR. BOHL—Mr. Speaker, I move to refer the bill to a select committee of one, with instructions to amend as follows: In line one, section one, insert, after the word "That" as follows: "in all counties having a population of 21,915, and no more or less, by the last Federal census."

Mr. Speaker, I would simply state to the House that if that amendment passes, which I think it ought, this bill will apply to the gentleman's county, Clinton. There is doubt in the minds of persons as to the operation of this law, and whether it would be wholesome. I for one am satisfied that this bill ought to pass, and have a trial in Clinton county, and if it be satisfactory there, the law can

be extended, afterwards, to other parts of the State. I hope the amendment will prevail.

MR. ALEXANDER—I hope it will not prevail, for the reason that I think it would not only be good for the residents of Mr. Quinby's county, but for all the counties of the State. I don't want to restrict it in that kind of a way, but want the benefits so extended, that it may apply to the gentleman's own county (Washington), from which so many petitions have come in asking for the enactment of this law. I hope the amendment will be voted down, and that the vote may be taken on the bill as it is.

MR. QUINBY—Mr. Speaker, I hope the amendment will not prevail. When the vote is taken upon this measure, I hope it will be taken on the bill as it was introduced, as it came from the committee, as it has been read in your hearing to-day.

If this amendment were to prevail, there might be members who would vote for the bill as amended, who would not otherwise vote for it. I should not be surprised if that were so. But on the other hand, if the amendment be voted down, as I hope it may, I am quite certain there are those who would vote for it, who would not vote for it, if amended. I do not want the bill emasculated in that manner. I hope the friends of the bill will stand by me, and vote down this amendment.

Mr. Speaker, as the rules of the House permit a general discussion of the merits of a bill, pending an amendment, I think this is as favorable a time to discuss, somewhat, the features and provisions of the bill, as at any other stage of the proceedings that may take place thereon, in the way of this amendment, or any other that may be offered.

This bill is right, in the main, or, it is wrong. I think there can be no middle ground to occupy. And it is for the members of this House to make up their minds, if they have not already done so, whether or not,

this measure is a just and equitable one. And if any one concludes in his own mind that it is, I think that it is his duty, as a Representative upon the floor of this House, from whatsoever county he may come, his duty as a representative of the people of that county, and of this great State of Ohio, to vote for it. I hope that each one will ask himself as to the merits of it, and that he will respond in a conscientious way by his vote. If the bill is right, it is the duty of this Legislature to pass it, as it would any other measuse that may come before it, for the interests of the people of the State.

I want to say to the gentlemen upon the floor of this House, that if it be wrong, that I should be glad for any one to point out wherein it is improper, or wherein its weakness lies. I say that the people of the State, voting at their township elections, or any other election, for that matter, have a right to vote upon this question of the sale of liquors. I might say that it is an inalienable right, in the sense that it should not be denied to them. This right of ballot is one that is sacred and dear to every elector in the state. Who will deny it? Can there be any doubt that the people of the state desire to get a vote on this question? Why, for nearly two months, there have been petitions coming up from the people, day after day, asking for the passage of this measure; petitions that are sent in from all parts of the State almost, in a very flood.

Nearly every county has been respresented here in the way of petitions, asking its passage. It has been shown by them, that no measure that has ever been before the General Assembly of this State, has awakened such a favorable feeling in the minds and hearts of the people, as this one. I ask any gentleman sitting in this House as a member of this General Assembly, or any one who has knowledge of the history of any former General Assembly, when, in the whole history of legislation in this State, was there such a

spontaneous, universally favorable expression from the people—the people for whom we are here to legislate, in favor of any proposition. When was it? And if the people are in favor of it, it is our duty to enact it into a law.

But, Mr. Speaker, let me allude for a short time to the counties that have been asking for the passage of this bill by the petitions of their people. Let me state something about the number. Taking in my hand a list, not quite complete perhaps, in that it does not represent in every instance the number from each county, inasmuch as I have taken down the numbers from the petitions read at the Clerk's desk, and may have sometimes imperfectly heard the number announced, I find that Adams county, named in honor of the second President of the United States, has largely petitioned for it; I find that Athens has sent in six petitions for it signed by over 500 of her people; I find that Ashtabula of Indian name, but who has given the people of Ohio, and the Nation, some illustrious men, has sent in over 1,900 names asking its passage. I want to ask the gentleman from that county, when did the people of that county, ever petition so largely for a measure? Knowing him as I do, I feel he will obey their voices, for *vox populi vox dei.* Then I come to Ashland, and if I mistake not there are 700 from there, and I want to ask the member from that county what his bounden duty is, as a Representative on this floor, in casting his vote upon this measure. Has he ever been instructed by such a number of his people before as to how he shall vote on a measure? I think not. Passing by Allen, I come to Belmont, with her fine mountains, as her name implies, but with a sturdy honest people, who have sent up here 1,100 names asking for it. Besides, in a public meeting held in that county a few weeks ago, the members from that county were instructed to vote for the bill, and, if I mistake not, the instructions will be obeyed to the letter. Then Butler, named for an officer of Revolutionary fame, not last in petition-

ing, nor least in the number of her petititioners. Her people have responded nobly, and sent up over 500 names. And it would not surprise me a great deal to see the honorable Speaker of this House come down upon the floor and advocate the passage of this bill, and cast his vote for it, having been instructed, as he has, by so many voters of his county so to do. Then there is Brown county, whose Representative is absent from his seat to-day, I am sorry to say. She has petitioned. Then comes Crawford county. It rolls up in one single petition the names of 600 of its citizens, and I suppose that one of the highest and greatest privileges ever falling to the lot of the member from that county (Mr. Meuser), and one of the pleasantest duties, will be discharged by him, shortly, in recording his vote in behalf of this act. And then there is Clinton county, ever steadfast and true for the right, with nineteen petitions, aggregating over 1,400 names, signed without regard to party prediliction or prejudices. The people of Clinton, named in honor of a former Vice President, have responded nobly. I feel that it is a great honor to represent such a constituency, and while I stand here as their representative, I trust I shall never falter or hesitate in the discharge of my duty, or prove recreant to the trust committed to my keeping. From one of the townships of that county, a township having a large Democratic majority, came a petition the other day with the names of 176 voters, being two-thirds of the voting population, and heading the list is the name of a gentleman prominent as a party leader therein. Then there is her next door neighbor, Clermont, with a list of near 500 names. I am sorry that the member from that county is not in his seat this day, and that he thereby will not have his vote recorded for this measure, as he has been instructed, and as I know her people desire he should. Then there is noble Columbiana, represented on the floor of this house by two very worthy gentlemen (Messrs.

Kerr and Boyce), who, I am almost sure, will vote in accordance with the instructions of their constituency. Then there is Champaign with 750; Coshocton, 600; Carroll, 300; Delaware, nearly 300. Then we have Darke county over there next the Indiana line, represented by my friend, the same in name, but not he of Hostetter Stomach Bitters notoriety. [Laughter.] She sends up a list of 300 names. Then there is Erie on the lake, and Fayette, named for LaFayette, the friend of American liberty, they both send up a goodly list. And here is Franklin county, here in the central part of the State, with over 300 petitioners, beside what came in this morning, and there was not less than 300 of them. Then Gallia and Geauga, then Greene and Guernsey, with a list of about 700 each; then Hardin, Harrison and Huron, the latter two with over 1,100 each; then there is Highland, the home of the Crusaders, the Gibralter of the Temperance cause, with her 4,500 names, on fifty petitions, united in one, where the political parties are nearly evenly balanced, and where the petitions are signed irrespective of party. Then there are Jackson and Jefferson, both named for Presidents of our Republic, they each send up long lists; then Knox with 700; and Lake and Lawrence, and Licking with her 1,300, nearly all voters. And then Logan; then Lorain with 1,200; then Lucas; then Madison and Marion, with over 500 each; then Medina and Miami, with 350 each; Meigs and Monroe, with over 100 each; Montgomery with 700; then Morgan with 1,136; Morrow, 347; Muskingum, with but one petition; then Noble, worthy of her name, with nearly 800.

MR. ACHAUER—How many petitioners' names came up from my county? (Muskingum.)

MR. QUINBY—I said, I think, that there had been one petition from there; am I correct?

MR. ACHAUER—I don't know.

MR. QUINBY—The member from Muskingum says he does not know. Well, all I have to say is that he ought to know. Then there is Ottawa; and Perry, 424 and signed, too, without respect to party—as I understand the member from that county to say. Then Preble with 478; Then Pickaway; then Ross; then Richland county.

MR. VAN CLEAF—Will the gentleman state the number from Pickaway county?

MR. QUINBY—There has been one only, that I know of, introduced from that county. The number of signers I don't now remember.

MR. VAN CLEAF—It was signed by about thirty-five.

MR. QUINBY—Richland county, 108; Shelby, 746; Stark county 520 odd; Summit 475;——

A MEMBER—How many voters?

MR. QUINBY—I don't know how many voters, and I will not say. I wish the gentleman would state, if he knows. Trumbull county 500, most all voters.

MR. FORSYTHE—How many did you say from Harrison county?

MR. QUINBY—Harrison county, 1100 at least.

MR. FORSYTHE—Well, there are over 1300.

MR. QUINBY—The gentleman says there are over 1300 from Harrison county. I was not stating these, as the full number. I wanted to keep on the safe side. I said at the beginning, I might not have each county fully and accurately stated.

Union county nearly 600, Warren county 1300, and over, Williams county, the extreme north-west portion of the State, nearly 500, and last in the list, Washington county, named for the "Father of his Country," 900 and over.

MR. BOHL—I desire to ask the gentleman how many among these 900 are voters?

MR. QUINBY—I suppose the gentleman from Wash-

ington knows the number of voters better than I do; he ought to at least. I can say that they are most all voters, as I now remember. I would say right here, in regard to this, before I proceed further, that these petitions, most all of them have printed headings, to be signed by *voters*. Some may be written differently from that, but most are in that way. I think that out of 40,000 petitioners for the passage of this bill, there are not to exceed 1000 of them that are women, or other than voters. That is my estimate of them. Not but that a woman has the same right to petition as a man, but I simply state that as a fact in this case as I understand the facts. I think this long list of petitioners from the counties I have mentioned, ought to convince every member of this House, that the people are for this bill; that they *demand* it; that they expect it to pass and become a law.

CHAPTER XIV.

THE DEBATE ON THE BILL—SPEECH OF MR. QUINBY CONTINUED.

MR. SPEAKER, I might say further that so far as my observation has extended in the way of notices that have been given the bill by the newspapers, it has been favorably noticed by nearly all of those that have given it any mention. I know it has had high compliments paid it by many of the papers throughout the State, and I do not except the Cleveland nor Cincinnati papers. I do not pretend that I have seen all that may have been said, however—

MR. POE—I want to ask how many petitioners' names have come from Cuyahoga county?

MR. QUINBY—Well, Mr. Speaker, I believe I don't know of any petitions from Cuyahoga, having been introduced in the House, nor do I know how many petitions

the gentleman from Cuyahoga may have in the capacious pockets of that coat tail of his [laughter]; I suppose though, he has none, or he would have presented them.

Mr. MEUSER—Will the gentleman from Clinton give way for a question?

MR. QUINBY—I don't wish to be interrupted now. The gentleman will have an opportunity soon, and I hope he will not shrink from it, to express himself fully on this bill, and hope he will do so. If he has a question to ask me, however, I will answer it if I can. I am willing to enlighten him!

MR. MEUSER—Yes, well I am certainly very much obliged to the gentleman for his courtesy and consideration, but I would like to know if the gentleman is not apprehensive that he is endangering the passage of his bill?

Mr. QUINBY—Now, that is a very heroi-comic kind of a question, for the gentleman from Crawford to ask! I fancy I am not.

Now, Mr. Speaker, I wish to call the attention of the members upon this floor to another fact; a fact, almost unparalleled in the history of legislation in this State; at least so, so far as my observation has extended, especially where a measure was designed to have operation throughout the whole State; and that remarkable fact is, that there has not been a single remonstrance presented against it, from any county in the State. There was a remonstrance from the Brewer's Convention in Cincinnati against the Eylar bill. But not one against this. If I am wrong, I should be glad for any member to correct me. Now, that is an extraordinary fact, and it goes to show how popular the measure is with the people.

MR. THORPE—If the gentleman desires to be corrected, I will correct him in this respect. A remonstrance has been sent in here signed by the Saloon Keepers' Association of the State.

MR. QUINBY—If so, it has escaped my attention. I

think the gentleman from Ashtabula must be mistaken. The fact of none having been presented by the people shows that the hearts of the people are with this measure, that they desire the bill to become a law, and this, with singular unanimity.

THE SPEAKER—(From the chair.) Will the gentleman yield a moment to indulge the chair? The gentleman from Ashtabula reminds the speaker that he has in his pocket the remonstrance from the Ohio Liquor Dealers' Protective Association, which the gentleman from Clinton will no doubt grant leave to present to the House. It was in the possession of the Speaker, and should have been presented before, but was forgotten. Of course it is the duty of the Speaker to present it to the House.

MR. QUINBY—By whom is it signed?

THE SPEAKER—Signed by the Secretary of that association.

MR. QUINBY—Well, let it be presented, and read by the Clerk.

[This remonstrance was then read. It will be found, printed in full at the close of the speeches herein.]

Mr. Speaker, now that the remonstrance has been presented, I will proceed. I was about to give some reasons why the people are so unanimously in favor of this measure—of an act of this kind. I say that it is because they are to be benefitted by it; that they will be affected by it for the better. They are for it, because it can be enforced at home. It permits suit to be brought in the township where the violation occurs, without going to the county seat, and going before a grand jury to procure an indictment, and afterwards going again, at the end of months, to the county seat, at great inconvenience and expense to appear as witnesses in the case. What objection can there be to enforcing it at home, where the witnesses can be easily procured?

Again, the prosecutions would be of a civil nature, it

would be a civil case. And when the evidence would be given to the jury, if a jury were demanded, the instruction would not be, that they should find the defendant guilty, beyond a reasonable doubt, but that they were only required to find on a fair preponderance of testimony. That would make quite a difference in regard to prosecutions. This provision tends largely to make it popular, in my judgment.

But some will say we have sufficient laws already, if enforced. I say not. The people do not say so. They understand the difficulty with which the liquor laws are enforced. They know that they are prescribed, hedged in, as it were. In order to commence the suit there must be, first an affidavit, filed before some Justice of the Peace, or Mayor, and prior to doing so, the party prosecuting must give security for costs, if the State fails in the prosecution. If the defendant be bound over, there must be an indictment in the Court of Common Pleas. The finding of indictments or the failure to find, is largely influenced, as perhaps will be admitted, by the conduct and influence of the Prosecuting Attorney. He is admitted to the grand jury room by virtue of law, and is counseled with and advised with by the grand jury, although having no vote in the finding of an indictment.

Another reason why the people are demanding local option is, that in the townships of the State, outside of villages and cities, they have no police officers, no marshals, none but a single constable to preserve order in the township. Riot and revelry may run rampant; the noise and disturbance, the cursing and blasphemy of the maddened inebriate may make night hideous, and drive slumber and repose from the inhabitants, and yet there is no relief, no protection by any officer of the law, for a constable is not empowered with ubiquity. How often it is that murders are committed, assaults made, indignities offered! A saloon may be kept open all night, they may sell ale,

beer, and wine at any hour day or night without stint, or hindrance; they may make night dreaded by those peacefully inclined, and yet there is no redress.

It is the duty of every citizen of the State to so conduct himself in his business relations with his fellow-men, in his associations in society, that he will not injure or molest others in the slightest, and it is this transgression of that rule by the liquor dealers, of which the people complain. They feel that the saloon keepers in these townships and villages have been for years, and still are waging an aggressive warfare in this respect that depreciates the property of the citizens, and renders life itself unsafe.

They believe that if the question of the sale of liquors be left to the people of a township, that society will relieve itself of this incubus, and thereby get rid of this terrible nightmare of dread that is brooding over it. By the ballot, they will give notice to the saloon keeper, to his backers and abettors, that they want no saloons amongst them; they propose to serve notice that this iniquity must stop, that this aggressive movement against good morals and order must cease.

They want to correct in a peaceable way, what they have regarded heretofore and what they now believe to be, a trespass upon their rights as citizens. This redress they demand, and expect to receive.

Now, Mr. Speaker, another thought: other States have had laws somewhat similar to this. I understand that the question of the license or non-license of saloons in Kentucky, is there left to the vote of the people of the townships or counties, and that the law is well enforced there. They have a local option law in some parts of Maryland, and New Jersey. They had a somewhat similar law in Pennsylvania. I have it before me now, and should read it but for want of time.

MR. BLOOM—I would state to the gentleman that it has been repealed.

MR. QUINBY—Yes, but they are agitating the question again. They are in favor of giving it a further trial and claim that it was only repealed at the behests of the Liquor Dealers' Association. But it was a question of license or no license there—different from the one now proposed here.

Now, Mr. Speaker, I do not desire to extend my remarks to any great length. But I want to say that I believe it the bounden duty of this House to pass this bill, that it may go to the Senate and receive the attention of that branch of this General Assembly. I believe that it ought not to be made a party question. It ought to be put above party politics or influence. I would put it on a higher level than that. I hope no effort will be made to drag it into any such arena.

MR. POE—I would like to ask the gentleman if we have not already had a local option law in Ohio?

MR. QUINBY—Mr. Speaker, in answer, I will say that we have not had a general local option law in the State of Ohio, not in the sense that it was left for the people to vote upon. There was authority, under section 199, paragraph 6, in the Municipal Code, delegated to the village and city councils, throughout the State, to pass ordinances prohibiting the keeping of ale, beer and porter houses and shops, and place of open and notorious resort for tippling and intemperance. But these ordinances did not apply to intoxicating liquors. That enactment is a provision of the Municipal Code, as the gentleman from Cuyohoga, Mr. Poe, very well knows, and never did apply to any townships. There was, under the old constitution, power given to certain townships in the State to vote on the question of license. There never was a law restricting the sale, in any sense of beer, ale and wine in the townships, outside of Municipal Corporations.

I want to read a few brief extracts from among the many letters I have received from different portions of the State,

endorsing this bill; many from persons I never met, nor never shall I suppose, but all conveying words of encouragement.

One says: "The bill is so reasonable in its provisions, and just what the Constitution authorizes the Legislature to do, in the sale of intoxicating liquors, that there ought not be a single vote against it on either side of the House."

Another says: "I believe your bill is the most popular one ever offered to the Legislature of this State; and if you desire more petitioners, we will shower you under with them."

Again, a gentleman writing from Knox county, says:

"Your bill is just what is needed. Work for it, fight for it. You have an army of friends over the State, that you have never seen, and perhaps, never will. We wish you all success."

Here is another letter from a gentleman in Brown county. He says:

"Tell the boys, for me, every last one of them, to vote for local option. Tell them, for God's sake, to give us the bill, and all good people will call them blessed."

Here is a letter from Ashtabula county, the home of Joshua Giddings, in his life time:

"Our Murphy Club sends greeting. We count 1,400 strong. We have secured the most of the voters for local option. Thousands are praying for the success of your bill."

Another, from an old gentleman, formerly a member of the Senate, residing at New Lisbon, Ohio, who says:

"I do hope your local option bill will be speedily passed by the Legislature, so that the temperance question may be taken out of politics at our *general election* and committed to the voters of the State at the township elections in April, to be decided as the majority wish. Both the friends and foes of temperance ought to be satisfied with that disposition of the question."

But why continue the list. These are but fair samples

of the many received by me. Why, but yesterday I received the following, from a highly respected lady, a church member, residing in Licking county. Its touching appeal ought to endue with enthusiasm the most indifferent, nerve to heroic action and determination the faltering, and mollify the opposition to the passage of this bill from whatever source it may come:

"At our meeting this Sunday afternoon, we gave notice that a prayer meeting would commence on Tuesday at ten o'clock, to last one hour and a half in behalf of the success of your local option bill, and may God grant its passage. Postal cards naming this hour, as an hour of prayer for your bill, will be sent to our surrounding towns."

Shall we not heed those prayers, this day made by these Christian people. Unless your hearts be like adamant they must soften at such words as these.

These are some of the expressions coming to me. I might say I receive dozens per day; hundreds of letters, all bearing the same kind of tone and expression, showing that the people are in earnest in demanding local option in Ohio.

Mr. Speaker, I will not detain the House longer by entering into any argument to show the gigantic evils of intemperance. They are known to you all. They surround you on every side. Turn wherever we may, our eyes behold the sight. Reeling, tottering, maudlin men, with their bleared watery eyes, tinted noses and polluted breath. Wives in poverty, hunger and despair, with hot burning tears coursing down their haggard and wan faces; the health bloom faded from their cheeks, whose husbands at the alter promised, yes faithfully promised to love, honor and protect. Children in rags crying for bread, and growing up without nurture, without love, without home, without a single ray of sunshine in their hearts, sooner or later to become the inmates of some of our benevolent or penal institutions, and the recipients of the charities of the State.

Yes, it makes thousands of paupers to fill our almshouses, it fills our prisons and houses of reformation which we are compelled to build and support. Go to the appropriation bills passed last year; go to those pending now, and count up if you please, the hundreds of thousands of dollars that are taken to support these institutions. Go to the penitentiary and ask those behind the prison bars there, shut out from the world, what brought them there. Intemperance would be the answer, in four cases out of five. With deaths from violence, with manslaughter and murders, by reason of the influence of strong drink, we are all familiar. Scarcely a day passes, but that the papers bring us one or more accounts of bloodshed caused by it. Every community, almost, has witnessed them. They have occurred here in this city. Within a short distance from these legislative halls, in the heart of this city, scarce two years have passed, since a man, maddened by liquor, precipitated himself from the fourth story window of a principal hotel, to the pavement below. Another, shortly after, walked into the Scioto river, within almost a stone's throw of the same hotel, and was drowned. And over in the State's prison there, is a man who, while under the influence of strong drink, killed his own son, almost within the shadow of the walls of the penitentiary, and who to-day looks out of a felon's cell, across the street to the door yard of his home near the bank of the river, and sees his children at play. But why continue the catalogue of crime?

Mr. Speaker, before closing, I wish to pay a tribute of respect to the women of Ohio, for the interest they have manifested in behalf of the success of this measure. And especially do I thank the Women's Christian Temperance Union for the support that they have given it; and for their resolutions adopted at their different meetings in the state, expressive of their great desire for the success of this bill, and for their kind words of greeting and encourage-

ment. Much of the sorrow, suffering, shame, poverty, and degradation resulting from the sale of intoxicating liquors, fall upon them. It is a part of woman's mission, to aid suffering humanity. Ever ready, ever constant, ever sympathetic, the appeals from the sufferers from this curse do not fall unheeded upon her ears. May the choicest blessings of this life, and eternal happiness in the life to come, be enjoyed by the noble, self-sacrificing, Christian women of Ohio! We know that their prayers have been ascending to high heaven, this day, for the passage of this measure. Will not the conciousness of this, so influence your minds, and soften your hearts, you men of Ohio, that this measure shall find favor with you?

CHAPTER XV.

THE DEBATE ON THE BILL CONTINUED. SPEECHES OF MESSRS. HARDY AND TOWNSEND.

MR. OGLEVEE—Mr. Speaker, I would like to ask the House at this time, to suspend the rules, in order that I may introduce a petition to the House on this subject, that has been sent to me by the citizens of my county by expressage.

Leave was granted, and the petition of J. B. Raffensperger and 4227 citizens of Clarke county, praying for local option legislation in regard to the sale of intoxicating liquors, was read at the clerk's desk and referred to the Committee of the Whole House.

Like leave was granted to Mr. Herrick, who presented the petition of 620 citizens of Lorain county, praying for the passage of House Bill 619, by Mr. Quinby, which was referred to the same committee.

THE SPEAKER—The question is now upon referring

the bill to a select committee of one, with instructions to amend.

MR. HARDY of Defiance county :—Mr. Speaker, I am in hopes this motion to refer will prevail. It is certainly in accordance with the spirit of the bill, itself, and in accordance with the idea of local option. Now, there are, probably, some other counties that have petitioned for this bill, as well as the county of Clinton, which the gentleman, the author of this bill represents ; and, if necessary, it may be well enough to allow them to be incorporated into the bill ; but for this bill to be passed for the entire State of Ohio, is certainly very wrong. There are some counties that have not asked for the bill ; havn't asked for any law of the kind. I know of a number. I think you will find no petition from the county that I represent. You will find no petition, I think, from the county of Henry. There are a number of counties that have not desired that there shall be such a law. Now, I am willing that the gentleman's bill shall be tried on, in his county.

MR. ALEXANDER—I would like to say to the gentleman that if there are no persons in the county of Defiance that want the operations of this law extended to them, certainly there will be no vote taken in those townships for it, and I want to ask the member from Defiance if he would not like to give it to other counties, so that all who do want it may get the benefit of a good thing ?

MR. HARDY—Mr. Speaker, if any other county wants it, I certainly have no objections ; but those that do not want it, should not have it forced upon them. But I would rather be in favor of having it tried in the county of Clinton ; something similar to the way some family in the West did. They had got pretty well run down, not much to eat, and they had to go through the fields and gather vegetables to eat. When they had gathered a lot, not knowing just whether some of the kinds might not be poisonous, there was one boy by the name of " Dick,"

they would feed him on it, and watch the result. If it worked all right with him, they would eat of it; if otherwise, they wouldn't. [Laughter] Well now, if Clinton county works well with this bill, the rest of the counties will take it in this way. We may spare them enough, but let us try a little at a time.

MR. SULLIVAN, of Miami—If I read the bill right, I find it is not made obligatory upon any thirty electors of any township to petition the township trustees to have this law go into operation in the township.

MR. HARDY—Oh, Mr. Speaker, so far as that is concerned, if there is the number of thirty—I believe it is—found in the township, that want an election, this thirty may annoy the township every year, continually. There is hardly a township of any considerable size but what there are thirty fanatics in it, anyhow, who can combine together. There is another question in this bill that annoys me some, and I am considered a temperate man, myself. I believe that water can sometimes be used for other purposes beside that of navigation. Now, this in section four, "If the majority of tickets voted at such election shall be for the sale of intoxicating liquors, beer, ale and wine; then it shall be lawful to sell intoxicating liquors, beer, ale and wine, subject to such restrictions, etc." Now there is provision for that, and it is very doubtful, in my mind, and possibly might be doubtful in the minds of some judges in criminal cases, whether the laws in regard to the sale of intoxicating liquors is not repealed by implication. That is a very doubtful bill, taking it all together, gentlemen, and while we may make it safer by a partial application of it, I think that we can see that it is fraught with a good deal of danger. But, for my part, I would rather not see the bill even go to that county. But I am willing that the gentleman should try it there, if he wishes, and if he will so amend it, I will vote for the bill.

MR. TOWNSEND—Mr. Speaker, I didn't desire, at this time, to say anything about this measure, but it is very evident, that if this amendment prevails, the measure is virtually lost. We will look at it just as it is. And therefore, I hope the House will indulge me for a few minutes. I shall not occupy time in talking about a great deal that results from the abuse of intoxicating drinks. It is unnecessary for me to say that, which you all know, that some two-thirds of the expenses of all criminal prosecutions in Ohio may be traced to crimes committed by men, through the influence of drink. It is unnecessary for me to say to you that out of the 1,650 inmates of the Ohio Penitentiary, more than two out of three, by their own testimony, and by the evidence in the Courts, are there through the influence of intoxicating drinks. It is unnecessary for me to say that which you all know, that the alms houses, and the destitution of Ohio, that must be supported from the pockets of the people, and from the industry of the people, is brought about by the sale of intoxicating drinks. I will only repeat what one of the greatest minds of England, but a short time before his death, said of the English people, that more than three-fourths of all the criminal expenses in England, Ireland, Scotland, and Wales, were directly attributable to the sale of intoxicating drinks.

It is unnecessary for me to say that which you all know, that the history of the past world is full of the wreck of governments that have risen, because of intoxication among the leaders and the masses I need not say to you that no vandal would have ever set foot in Rome but for the intoxication of a patrician mob. I need not say to you that the Ancient Grecian States would not have lost their liberty, but for intemperance. I need not say to you, that all the terrible plagues and calamities of the middle ages, in Europe, grew from this evil. I will say, with Abraham Lincoln, that "A country cannot live half slave and

half free," half drunk and half sober. We may make up our minds that, in the light of legislation, this question is irrepressible. In some way or other, such legislation as wisdom and experience, and moderation dictate, will take place. It cannot be stayed. As science, virtue, integrity, and political economy advance, so this question will rise higher and higher. It will not down.

The ghosts of its wrongs will stand up and look every Legislator in these United States in the face These stupendous burdens that it imposes upon the wealth and industry of the commonwealth are continual arguments, and we cannot escape them. Now, as wise men, looking back at the experience of the past, and hearing the voice of the present, what ought we to do? That is the question. Why, there is a voice on it, now hardly ceased its echo in this hall, from Clarke county, of over 4,000 people; and although it was a whisper, it is louder than thunder! In the face of these petitions, nearly all voters—I repeat it, nearly all voters, the nearly 50,000 persons asking for this measure—I say, in the face of that voice, it is the absence of wisdom to refuse to answer: the presence of wisdom to answer. For the right to petition, and the right to be heard in answer to petitions, is a right that cannot be disregarded. I have here before me, an editorial written by one of the best Democratic editors that I know of in the country; and not only that man, but the press of both parties have echoed, and are still echoing these sentiments, all over Ohio, and ask upon the broad, philosophical grounds of home rule and home government; the Democracy of the locality, the Repnblicanism, demand the right of government by home sentiment, that shall prevail in this law that is proposed. What is this measure that is proposed? I ask you, in its philosophic light; what is this measure that is proposed? It is nothing more and nothing less than this: That while the laws of Ohio restrain people in their several localities from exer-

cising their will in this particular, they ask to take away that barrier, and permit them at home, to exercise their own sentiments, and that is the purest and simplest home government, home rule, Democracy, Republicanism, if you please, that can be found. It is self-government in its essence. If one takes up the history of Ireland since the beginning of this century, and listens to the cry of that people against the English, he will find that it all arose out of this, that England took away their parliament, and merged it into the English parliament, and refused to allow them to govern themselves at home, grinding the rights and privileges of the Irish people to powder, devouring their substance, and causing the land to be one vast hot-bed of discontent. The same liberty is asked for here, by free citizens of the State of Ohio.

They ask nothing in this bill but to be permitted to exercise the resident sentiment as to what they will do in this matter. Each township asks for itself, that if the sentiment in that township is adverse to the sale of intoxicating liquors, as a beverage, then that sentiment shall prevail. And it awards to every township in the State of Ohio the right to say "no," and it is, therefore, upon the broad ground of the enalienable right of the citizen to govern himself that I plant the wisdom of this measure.

And I say to you, and I wish it distinctly to be understood, that whoever disregards it upon this floor, must suffer in his own home locality, and he will suffer in the sentiment and interests of his party, if he makes a party measure of it and takes that position. I hope that this question will mount higher than party, and that we shall rise to meet the question upon the basis of its own merit, and look at it in the light of excellence and statesmanship.

And now I ask this question, that whenever any townships of any county are adverse to the exercise of this law, they have only to stand up in their own majesty and say they will not have it; is not that right? It forces upon

no community, except it be the voice of the community for allegiance to it, to obey it. Who will want to go home to his constituents and say that "when that measure was offered in the Ohio Legislature, that gave to my people the right to exercise their own sovereign will in their own locality, I said "no ?"

Reading from the Athens *Journal* of last week, I find this: "The Columbus correspondents of the daily press say that in all probability that body will not dare assume the responsibility of legislating against the liquor traffic on the eve of the most important state elections ever held in Ohio." "We trust that these correspondents are mistaken in their estimate of the nerve of our solons at Columbus. The attempt by any dominant party to shirk a plain duty, is a cowardice which has never, in the political history of any country, resulted but in subsequent disaster and defeat."

And now I want to lay down this axiom, that any member who leaves his desk to avoid voting, when the vote is a material one, or even not a material one, will, in the future, find the ghost of that cowardice rising up against him.

And now, representing the people, when the people ask to have awarded to them these rights, which the legislature could never have except it were transferred from the people, and we say "no," the people will hold us individually responsible, you may rest assured of that; and it is only a question of time when that responsibility will be made manifest. "It is not by an appeal to our grosser natures or appetites, but to the higher and nobler impulses of the race that true party supremacy is founded 'as upon a rock.'"

In the history of the past, no party has had vitality, except when they legislated upon the very questions enunciated here. And it is when they take into consideration the real welfare of the people, and their real wishes, dis-

regarding all impulses of personal motives, that they succeed.

"Even as a party measure, we believe the passage of this bill would strengthen the Democracy throughout the State, to say nothing of the moral results which would certainly be beyond computation."

"We hope the hour has now come when the citizens of a community will be permitted to take this question of liquor or no liquor into their own hands, and to decide it as seems to them proper. And if the present Legislature of Ohio fails to afford our people this privilege, it will, in our judgment, have committed a very grave, if not an unpardonable, error."

Now, gentlemen, I am not standing upon this floor asking that this amendment go down upon the bare ground of any sentiment that I may have, one way or the other, but I am asking upon the high ground that I believe that the communities themselves ought to have the right which they ask for, and the wisdom and propriety of exercising that right will devolve upon them. Not a community in the State of Ohio that does not desire to restrict or abridge the sale of intoxicating liquors, is compelled by this measure to do so. It is but permissive. The people have come in here and by petitions, signed by such number as never before were presented to this House, have asked to be permitted, if you please, to regulate a traffic concerning which there is great complaint, in their own localities; and the simple question is, whether you will permit them, for there is no personal proposition involved here.

And I ask you whether you believe that you can go home and look your constituents in the face, and say that, when those same voters asked of you, permission to regulate this matter, you said "no," and know that in many parts of the state, if not in the aggregate, you have the dis-approbation of the people? For I can say here, that

those who have petitioned are not of one party, they are of all parties, and in the aggregate, there are but few women and children among the petitioners. Nearly all of them are voters. A few days since, I received petitions, and those that were voters, were marked, and I found that about one in fifteen of all those petitioning, were not voters; or, nearly every one upon those petitions exercised the elective franchise.

Now, I desire not to detain the House. I have only to say that if this amendment prevails, it is the end of the bill, substantially, because it limits it to a single county, and thereby the question, itself, as to whether there should be anything of the kind proposed in this measure. The amendment is not made for the purpose of amending; it is made for the purpose of destroying; and therefore, it raises a vital question. If it were for the purpose of increasing the efficiency, in rendering more harmonious the different parts of this bill, then it would be an amendment, but as it is, it is a direct aim at the vital principle of the bill, and so restricts it, that it is not to apply to the people of the State. Therefore the whole question turns upon this amendment; and I hope it will not prevail; and when the bill, itself, comes to a vote, I hope that it will pass, and that the opportunity may be given to the people of Ohio in their own localities, to exercise their sovereign will. For, by what authority do we legislate, but by the authority of the people? The people ask us to return to them, in such localities as they see fit to use it, that power that they invested in us; and they, being the sovereigns of this country, and asking of us the return to them a fraction of that power, and by petitioning to the extent they have, I declare in my opinion, it is a reasonable, proper, and wise thing to give them what they seek.

CHAPTER XVI.

SPEECH OF MESSRS. OGLEVEE AND BOHL.

MR. OGLEVEE—Mr. Speaker, I do not desire to occupy the attention of the House but a few moments. I would have preferred at some other stage of the bill to make the remarks that I am about to make at this time.

But if this amendment should prevail, it is an end of this measure.

I am surprised, somewhat, at my friend from Washington, (Mr. Bohl) for the introduction of this amendment—a gentleman who is generally fair on all questions of legislation. I supposed that we might vote directly on this bill, and not have it affected by unfriendly amendments.

But, standing here as the representative of those 4,228 petitioners whose petition has been sent to this General Assembly, to-day, I might be considered as neglectful of my duty, should I not say some words in their behalf.

MR. BOHL—I would like to ask the gentlenam a question ; I would like to ask him whether he would like to have this House meet this question as the sixty-second general assembly, which was Republican, met it? [The Carnahan Bill, which proposed the restoration of authority in subdivision 6 of Sec. 199, of Municipal Code, to village councils to pass McConnelsville ordinances.]

MR. OGLEVEE—I would not, no sir.

MR. BOHL—Why didn't the gentleman defend it then?

MR. OGLEVEE—If the gentleman will go to my record in the sixty second General Assembly, he will discover that I always voted, on every occasion, in favor of bringing the question to a direct vote in this House. He may examine my record on that question.

MR. BOHL—I will ask the gentleman, Mr. Speaker, if that was the record of his party.

MR. OGLEVEE—Mr. Speaker, it was not. It is no party question.

Mr. Speaker, in that petition, to-day, the great majority of those persons are voters. There are those who work at the anvil, and in the work shops of our city; there is the Catholic and the Protestant; the black man and the white man; the rich man, the aristocrat, and the poor man.

Those 4,228 petitioners come here from every class of our society; and I will ask the gentleman from Defiance, (Mr. Hardy) who has spoken sarcastically of this bill, that he may now come up and help me to vote for the measure that our people ask for, in our county. If I vote for this bill, if it becomes a law, it does not affect a single constituent of the member from Defiance, unless they want it. If this bill goes upon our statute books as a law, to-day, it has no force nor effect in any municipal corporation, township, or county, until that township or corporation shall carry it into effect by their ballot, or the ballot-box.

I would like to hear some gentleman upon this floor say that he is opposed to giving such a measure as this to the people of his county. I would like to know his reasons why he is opposed to this just and this humane measure. Why, we hear the cry go abroad here that we have legislated upon the subject in reference to the fees and salaries of county officers. Upon what grounds? Why, you say to me that you have been petitioned; petitioned by thousands and tens of thousands, in those counties, to reduce their salaries. I say, those petitions that come up in reference to that matter, haven't been one to where there are ten for this measure, and yet, gentlemen, to-day, will undertake to engraft upon this bill this amendment, in order to defeat this whole subject!

I can not believe that my friend from Washington de-

sires to cripple the interests of this State, nor does he desire to say to me, or to other members upon this floor, that if we desire to have this question of local option tested in Clarke or other counties, we shall not have it.

I shall vote for this bill, and, when I do so, I don't force upon the people of Washington county the provisions of this law, unless those people vote for it in that county. Now, I will ask him to accord to me, and to those I represent, his vote. Let me ask that he will help me make a law that will go upon the statute book, with the belief that the people of my county will vote for the provisions of this bill, and thereby curtail, if not entirely destroy the evil effects of intoxicating liquors in my county; that there will be a sufficient number of votes in this House to engraft this amendment upon the bill, I hope not. I hope that it may be voted down, and then let the question come squarely; let us meet this issue now, and stand by it or fall by it. I believe that every member upon this floor that would vote for this measure has an argument with which he may go to his constituency, I care not what the public sentiment on that question may be, and they will justify that act. If they say "You voted for House bill No. 619," you say "Yes, and when I voted for that bill, I still left it to the public sentiment of my county to say whether it shall be a law that is applicable to my county, or any township in my county, or any municipal corporation." When you come to examine the bill, I challenge any gentleman to adduce a single good argument against its passage. I would like to have some gentleman adduce a single argument upon the floor of this House why he is in favor of this amendment, and say that it shall apply only to Clinton county. I would like to question the gentleman from Washington, (Mr. Bohl) whether, if this amendment is engrafted upon the bill he will vote for the bill to become a law?

MR. BOHL—Certainly.

MR. OGLEVEE—Then he proposes to vote for a law that shall be applicable to Clinton county, but not to other counties, generally. He is not in favor of wholesome and good laws for the State of Ohio.

MR. BOHL—I would like to ask the gentleman whether he is trying to catch the Prohibition vote for the office of State Auditor?

MR. OGLEVEE—Mr. Speaker, I am not standing here asking the votes of the Prohibitionists; asking the votes of Democrats; asking the votes of Republicans; or any person else; I am standing here advocating a measure that I believe would be a good law upon the statutes of the state.

But now I understand the author of the amendment to be in favor of that; that he will vote for the bill if this amendment is attached, and thereby, by his vote say that such a law as that, is wanted for Clinton county. I answer him by saying that if you will vote for that kind of a law, and say it is good for Clinton county, you may say, at the same time, it is good for Washington county. That is what you say by your vote; and when you say by your vote, why are you willing that it shall be left to the voters of Clinton county whether this shall become a law, or not, and unwilling that the same question shall be tested in that way in Washington county? Now let me ask this further question: If it is a good thing for Clinton county, if he desires that it shall apply to that county, why is it that the gentleman is more partial to Clinton county, represented by Mr. Quinby, than he is to Clarke county, represented by myself? If he would give the measure to Clinton county, will he not go one step further, and assist to give that measure to Clarke county? Will he not go still another step further? Will he not give that same privilege to the county represented by the gentleman from Belmont (Mr. Alexander) who sits by his side, and desires that the provisions of this bill shall go to that county?

The amendment now before the House has not a single meritorious feature in it, and I challenge the gentleman to produce an argument in favor of it, upon the floor of this House. I will patiently listen to it. I would like to know what is so desirable in that amendment that he wishes it engrafted upon this bill.

I cannot think, gentlemen, for a moment, that enough of the members present will vote for it to engraft that upon the bill. Let the vote be taken. Let us take issue squarely upon the propositions of the bill itself.

MR. BOHL—Now then, Mr. Speaker, I am opposed to this bill. I don't believe the majority of the people of this State desire this law. In fact, I know they don't. For whenever any party has declared in its platform against sumptuary laws, that party has always been successful. And the people don't desire that we pass sumptuary laws here. I am further opposed to this bill because I believe it to be class legislation. This question of liquor, is either right or it is wrong. And if wrong, you should pass a law here wiping out the entire traffic; but if right you should regulate it.

But I have always said that I am in favor, and will to-day, with pleasure, vote for any bill or constitutional amendment, rather, looking to a license law. I believe, Mr. Speaker, that that is the only way to regulate this traffic, and correct the abuses that now exist, if they do exist.

MR. FOSTER, of Cuyahoga—Do I understand the gentleman, that he believes the majority of the people of this State don't wish this law?

MR. BOHL—I do.

MR. FOSTER—Will the gentleman state upon what he founds that belief? There has never been, I believe, one single remonstrance presented against it.

MR. BOHL—Oh, Mr. Speaker, I know that. The people, I think, had sense enough to believe that the bill

would not be passed here. And the people saw too, that the General Assembly had also evaded temperance legislation, and never met it squarely.

And now the charge of the gentleman from Clarke, (Mr. Oglevee) is that we are not desirous of meeting it fairly and squarely.

A MEMBER—I wish to ask the gentleman if he was not incorrect in the statement that there had not been a remonstrance?

MR. BOHL—I may be.

SAME MEMBER—I understood, Mr. Speaker, that you announced, this morning, that there had been one from the Liquor Dealers' Association, of Ohio?

MR. BOHL—I believe there was.

MR. THORPE—I wish to ask what the political judgment of the State of Ohio was upon that sixty-second General Assembly?

MR. BOHL—Oh, I don't know, and I don't care. It don't enter into the question at all. When this General Assembly was elected, the people didn't care. But I defy members to show a more stringent law upon any subject than upon this, to-day. And why don't you enforce the laws that you have upon the statute books at this time? Why don't you enforce the law that you have? The law is strong enough. You don't need any additional law. I don't believe this is a wise law, for, perhaps, one township would not permit saloons, and the other would; and the case would be as in those states that have had it, that if a man wanted to drink whisky, he would run over to another township, where he can get it.

Now sir, Mr. Speaker, I am in favor of a license law, a strong one; for there are abuses, I believe, that should be corrected, and I believe that is the only way to do it.

Do you answer me that this is wrong? Then let me ask you why it is the United States require a license from those people? Why do you take their money, as the United

States, and then try to thrust them out as a state? I say license would meet this question. It is either right or wrong; and if wrong, pass a law here prohibiting the sale entirely, and not meet it in this cowardly way.

Now, Mr. Speaker, as I said before, I don't believe—in fact, I know, that the majority of the people don't want such a law as this, and I offered this amendment, not for the purpose of killing the bill, but because the member from Clinton, (Mr. Quinby) has explained on this floor that the people of his county wanted this law, irrespective of party, and if so, I am willing to give it to them a year, perhaps, and if it is a good thing, you can afterwards extend it. But I believe you will find, after they have had it one year in any one county of the state, that you don't want it extended at all.

Now, there is a proposition pending in this House, for a constitutional amendment giving us a license law, and I say I will cheerfully support that. I say, make the license so large as to drive out a large majority of these saloon-keepers; and if you then regulate the business, the same as the United States, you will not see the evils that are created now by having the small shops all around, selling whisky out of jugs; selling to people they ought not to sell it to. It is the only way to correct it. You cannot correct it by local option. The states that have local option, don't correct it. As I said, they will go from one township into the other to secure the whisky, and you have the same evil that you have now, without the revenue. But with a license law, you will drive out more than half the men from the business, because they can't afford to pay the license. You will thus legalize the business, and have a large revenue in your State Treasury; and I believe, Mr. Speaker, that is the only way to correct this evil, and it is the only way that I propose to vote. I think the liquor law at this time is strong enough, and I defy any man to point out a given subject on which we

have such stringent laws as we have upon this same question.

I ask again, why don't you enforce these laws? Why did you, in the sixty-second General Assembly, evade this question? Why didn't you meet it squarely, when you had a majority? Why did you want to saddle it upon this General Assembly? Simply, I believe, for political buncombe.

MR. OGLEVEE—Do I understand the gentleman that he approved the course of the sixty-second General Assembly in evading this question?

MR. BOHL—No sir; I don't approve it. I say you ought to have met it there squarely, but you didn't do it; and now you ask us to do what you would not do.

MR. OGLEVEE—The gentleman states that the sixty-second General Assembly should have met this question, then, squarely; now has the principles of this question of temperance changed?

MR. BOHL—I say that that General Assembly should have met it, because they always claim in their platform and in their speeches, to be friends of this measure, and the party to which I belong has universally, in all its platforms, declared against sumptuary legislation. Therefore, you ought to have met it squarely, but you dared not, and now you desire us to do so.

CHAPTER XVII.

THE DEBATE CONTINUED. SPEECHES OF MR. ALEXANDER AND MR. SEIFERT.

MR. ALEXANDER—Mr. Speaker, the question before the House is on the amendment offered by the honorable member from Washington, (Mr. Bohl) to make this law apply to but a single county in the State. I

don't think that on an amendment of this kind, the debate ought to assume so wide a range as it has; but I could not sit still and hear some of the statements made wtihout stating what I believe to be the views of the Democracy on a question of this kind.

I am a Democrat of more experience and of greater age than my friend from Washington, and I have stood to defend its principles in the presence of howling mobs; and I rise here to denounce the statement that it will commit the Democratic party to the support of violators of law, who are supported by the saloon system of the State; that opposition to temperance legislation as sumptuary laws has made the Democratic party successful! Never! never! Carrying such a load as this, it has almost doomed us to defeat. Great heavens! has that grand old party, with its honorable record, its grand old principles, to come, at last, to tremble with fear before the saloon keepers of the State? The violators of law, those who create criminals, and paupers, and idiots? Those who spread pauperism all around them? Has the Democratic party to stand, at last, in its declining strength, and look to the support of the saloon system of the State? Never! I would state, like I heard another one state, "Let thieves go, but stand by the principles." Let these saloon keepers go; don't let them, however, use our necks as millstones. Let us make it the party of law and order; let us make it the party that will hear the cries of widows and little children, in their distress; let it be the party that will demand that the majesty of the law be invoked on these scoundrels, on these violators of the law of this State. I am surprised at the statement of the member from Washington, that he makes it a strong point, that the laws upon our statute books are not enforced. You have a system where judges are elected by the votes of saloon keepers; you have prosecuting attorneys whose election depends upon such votes; and they stand, often, as men unworthy of the name, fear-

ful in the discharge of their duties, looking only to political supremacy in the future. The member from Washington has stated again, that this question has been raised here for political effect. That is why, he thinks, it is sprung upon this legislature. Let the grand old Democratic party, if that is so, choose the side of the right, and humanity, and law. We have a right here to take our choice upon a subject such as this, and if it is sprung for political effect, let us vote solid in favor of laws that are in the interest of the whole people, and punish those violators of law, who daily are violating these statutes. I protest against such doctrine; I protest against such statements, as that we have carried the State only when we have written "Opposition to Sumptuary Laws," in our platforms. Oh, there are grander principles, if the member from Washington will read them. If he will read the principles in the Democratic platforms, he will find there, soul inspiring principles, grand and noble. Has it been for such things as this—that liquors might be sold, that penitentiaries might be filled, that murders might be committed, that men might be reduced to poverty and their children made paupers and criminals—that the Democratic party has organized and carried on this grand fight through all the country? If it is, how terrible has been my mistake! If it is, how long have I labored for error! If it is, let us hide our heads in shame, when we, by looking, behold this crime, and this misery, and this wrong, and this injustice! Mr. Speaker, look at the prayers that come to us in the way of petitions! and men will stand on the floor and ask, "How many legal voters are among them?" I don't care whether there is one; there are women, and there are children. Are not their prayers to be regarded? Are they to be spurned by this body? Are they to be driven away?—these, the greatest sufferers from this evil, and from this wrong? Is that the doctrine? are we only to re-

gard voters? are we in favor of disfranchising women forever? Are we trying to make the old Democratic party stand up and support this whisky selling business? Never, by my consent! never!!

This amendment should not prevail. If this is sprung upon us by enemies for political effect, let us overwhelm them with confusion, Let us do what our consciences tell us is right. I don't care how elections may go, I don't care whether Hamilton may go Democratic or not, I am in favor of the passage of the law that will protect citizens all over this State. I know that if the measure passes, nine-tenths of all the townships in Ohio feel in favor of this, and will adopt this law. I know this infernal business can be hemmed in, in a few localities, prevented, surrounded by a cordon of fire, hated and despised until these people of Ohio open their eyes and see the taxes they pay, and the expenses they incur for allowing those men the liberty of making drunkards, destroying souls, destroying families, engendering crime, and blunting the moral sensibilities of society.

Mr. DODDS—I merely desire to ask the gentleman when he became so strong an advocate of women's rights? We had a little bill here a while ago, that was referred to a committee, of which the gentleman was a member, and they reported it back, recommending its indefinite postponement, which proposed to give this poor sex the right they now possess, that of becoming notaries public; and if I mistake not, his name was signed to that report.

MR. ALEXANDER—Mr. Speaker, the gentleman from Hamilton is very much mistaken. From the time the gentleman from Cleveland, Mr. Palmer, brought in his bill to allow them to practice law, I have voted consistently on this question, and on all questions.

MR. DODDS—I desire to say that a gentleman informs me, that while the bill was in the hands of the committee, the gentleman from Belmont voted against it.

MR. ALEXANDER—Does the gentleman from Hamilton say that my name is to that report?

MR. DODDS—It is only an impression.

MR. ALEXANDER—The gentleman states that it is only an impression. I say that it is not true. I hope the amendment may be voted down, and let us come to a fair, honest vote on the bill, that every member of this House may vote his honest convictions for or against this bill.

MR. SEIFERT—Now, I don't know, really, that I desire at this time, to discuss the question under consideration, before the House; but the remarkable position taken by the gentleman from Belmont, (Mr. Alexander) is such that I could not resist the temptation to rise in my place and say that he is entirely mistaken in regard to his views as to what has been the course of the Democratic party.

While the Democratic party always has been, Mr. Speaker, and I hope, always will be, the friend of temperance in everything, it always has been the enemy of fanaticism. We are not opposed to any laws for the regulation of the sale of ardent spirits. That has been demonstrated in these halls again and again. The laws now upon your statute books are owing their existence to the action of Democratic legislators, and I am satisfied that upon close scrutiny of the laws, every member in this body, that is really in favor of temperance must be satisfied that, for all practical purposes, in the protection of the people against the abuse of ardent spirits, we have a sufficiency of statutory provisions; and while those laws are there and remain in force, in all municipalities, in all your counties and townships, cities and towns, it is useless for this legislature to pile more upon them.

CHAPTER XVIII.

SPEECH OF MR. BLOOM.

MR. SPEAKER, I am opposed to the passage of this bill, and opposed to the amendment, because I intend to meet this question as I do all others, upon the test of that unerring rule, whether it will be for the best interests of the people of the State. I have seen for years and years temperance excitement. I have gone by practical experience, and lived under every law which human ingenuity has invented; and I declare here, to-day, that the old license system made the fewest drunkards, the most sober community, of any that ever existed, to my knowledge. And I say to you, that this very measure that you are attempting to pass upon the people of the State, will have localities where the *quasi* endorsement of the evils resulting from the sale of liquor will be taken, while if you don't pass it, you have nothing more than you have to-day.

The gentleman from Belmont (Mr. Alexander) misrepresents the Democratic party when he appeals in impassioned tones to us, that we are not the party of law and order, but in favor of making widows and orphans, and all the misery throughout the State. He mis-states the purpose of the Democratic party. We are against the evils resulting from the sale of intoxicating liquors, or anything else, but, we are the party of personal liberty.

We say, as a party, and the Democratic doctrine is that every man is at liberty to do what he pleases, so that he does not injure his neighbor, society, or those that are dependent upon him. You may put a knife to your own throat, and attempt to take your own life, but the laws of the state do not take hold of you, if you should recover;

but if you even threaten to do that to your neighbor, it takes hold of you.

There is an illustration of Democratic liberty, and upon that I stand. All that you have in this law is the poor privilege of allowing the majority in a village or in a township to say what shall regulate the appetites of their neighbors; that is all there is of it. There is nothing else in the bill, than that thirty men shall say what twenty-five men shall do in regard to their personal habits. Now, I say, it will entirely fail in its object. It failed in the State of Pennsylvania. The county from which I came, voted in favor of local option, say by, I think, 800 majority, but they didn't have that law in practical operation more than three years, until they voted it down, by a tremendous majority; why? Because it made more drunkards, more widows, and more orphans, by this traffic than they had under a well regulated license system. And so it will be with the people of this state. I am not holding the lash over you, gentlemen, and saying that your county will not sustain you, and appealing to the lowest passions that could actuate a person in making laws for a state, but I say you will fail in your object. Your desire to do away with intemperance will utterly fail. It will be like it is in my own county, where certain townships and villages have for years, not sold a drop, and in those very villages they have worse dissipation, drunkenness and debauchery, than any other in my county.

I have had practical experience in my own county, and I will tell you just how it operated: they go to where it is sold, they purchase it, and take it to town, and, in defiance of all decency, go down the streets drinking it at wholesale, because they cannot buy it at retail.

The gentleman should remember that it is one thing to pass a law, and another to enforce in. I have seen that popular sentiment does not sustain this law. The appetites of the people demand liquor and they will ride over

every barrier, and do that which they ought not to do by the moral law.

You have statutes upon statutes, which I will not name here for the suppression of crime, and yet there never was a day when it existed to so fearful an extent as it does to-day, because of this very principle. I believe it will be worse for the town in which I live. I believe other towns will vote it down, and make a hell of my own town.

We had an exhibition, in my town, of a *quasi* license system, and I believe it has operated well. The principle is to put these saloonists under bonds; and from fifty, in that town, they have dwindled down to five.

Now then this bill before us leaves it to a vote of the people whether they will have local option. It shall only be sold for medicinal purposes; measured out by a physician. Gentlemen, do you know the corruption in the State of Indiana under such a provision as that? Have you informed yourselves as to the corruption and perjury that has existed throughout that state under such a law as this? Your law does not meet it. It will only open new avenues of corruption.

Until you restrain the appetite by a power greater than the power of legislation, you will have the same thing to deal with, in every conceivable shape. Go to your constabulary law in the State of Massachusetts where they had prohibition *in toto*, and what was the effect of it there? Neither by the power of prohibition, nor with two constables in every township and every ward of every city or village, was the law carried out. Why, sir, I speak from personal experience. I was at the Adams House, and I inquired for a cigar, which I supposed was the only sort of "cheer" one could indulge in there, though I could not smoke; I asked for it, and I was told to step to a side door, and in there was one of the most magnificent saloons I ever saw in my life, the outgrowth of that constabulary law in the State of Massachusetts, and in the

"Athens of America." And they had more drunkenness in the State of Massachussetts than if there had been a license law; for, under the latter a man could not deal in liquors unless he could stand the test of the law, and those who were in favor of wiping out all who sold against their interests.

I say, sir, upon my honor, and under my oath, as I believe that I am legislating for the best interest of the people of this State, that when you give up fanatical influences, and go back to the practical part of life, and acknowledge that the evil cannot be wiped out, you may then regulate it. It can be so abused as that it will not answer the purpose for which it was originally intended, for I say to you there is no gift of God that may not be abused; and while this may be a good thing and a great blessing to the people, it is also one of the greatest curses when not regulated in that way, the correct temperance idea being lost, and drunkenness ensuing. I stand here pledged to legislate against any change in the liquor laws of the State, and I will carry out my pledges, if it costs me my place.

Coming from Pennsylvania with a strict license law, and hearing that there was no law for license here, I thought "surely there is the place where there will be no liquor sold; the people will have the matter under their own control." But when I came here I found fourteen saloons in a little town of a thousand inhabitants. I found the sale of liquor greater, ten times greater than in my own State, where this despised legalization of the sale of liquors is the plan.

Now, I don't believe that the people of the State of Ohio will get back to sound principles until you get to that point in which you can drive this business, as the gentleman has said, into the smallest possible compass. You can't do it by making another law on that subject, at all; you cannot do it by leaving it only with druggists and physicians, because that is the curse resting upon one town in my coun-

ty, where there is no saloon at all. You perceive, gentlemen, that the enforcement of law is altogether a different thing from the mere passage of it. If the dreams the gentlemen have indulged in would be realized, that by the mere passage of this law allowing the people to vote that no liquor should be sold, all the dram-shops would be shut up, and our children should go no more into them, and no such temptation should be placed in their way, oh, who could not vote for such a law as that? If I could feel in that way, I would aid it. I am not afraid of anything they can bring against me in my own county; but I speak what I know and believe on this subject. And therefore, I must vote, not only against the amendment, but against the whole bill; and I will meet it fairly and squarely.

I say the sentiment is wrong that the man who drinks and becomes intoxicated, and makes a brute of himself should not be punished, at all. I don't believe in it. Why? Because, in the exercise of my duty as magistrate, I cured a man of that trouble once, by sticking him in the jail of the county. Experience has taught me to believe that if the drunkard were punished to a certain extent, it would be better.

You cannot sell intoxicating liquors under our present law, for any purpose, whatever, to be drank where sold; you cannot do it without violating law. You cannot give it away to a person in the habit of becoming intoxicated; you cannot, by any pretense or device possible, purchase, or acquire, or come into possession of such; you are liable to civil damages. No person can rent a house or building without being subject to the damages which will result from the sale of it. He can't rent his garden without being personally liable for the absolute prohibition of the sale of it so that it will do no harm or no injury. And that is the extent to which my teaching as a Democrat goes, and no further than that.

I will go that far, but cannot go a step farther, because

Democracy is really conservative. It is not fanatical. I therefore, say to the gentleman from Belmont, Mr. Alexander, that when he says the Democracy are advocating the saloon system, and when he says that we cannot stand up against the saloon system of the State, I tell him that the Democratic party of Ohio, is not responsible for the saloon system of Ohio.

MR. ALEXANDER—I did not make that statement.

MR. BLOOM—I will leave it to the house whether you did not. You said in those very words, that we were responsible for the saloon system of the State. We are not! We never made it, we went against it. I object to the Democratic party being branded with the stream of intemperance in the State, the vices of the State. I think that the extreme saloonists, to-day, and the extreme temperance fanatics, to-day, will refuse to vote for any license, whatever. We will rid the State of the saloon system, as now practiced, just the moment that you give us opportunity to do it. We are not responsible for any of the violations of law: we are not standing here and saying that you shall not enforce the laws of the State of Ohio; we are not apologizing for violators of law; we are not standing here and doing anything else than standing up for the majesty of the law, and for the interests of the citizens, under the Democratic doctrine that you shall only take hold of his action when he does another man an injury.

Do you say that alcoholic liquors are injurious, and their use should be abolished? You may just as well say that cigars should not be smoked. You could go just a step further, and say that coffee should not be drank; that tea is injurious, and you should not use it. You have no business with them; you have nothing to do with the employment of persons; but you can regulate these things.

If you can bring men back through the Murphy doctrine of an appeal to the gospel of temperance and love, you

will not need State legislation to help bring up public sentiment to the proper attitude.

I have another word to say to gentlemen on the other side. But I don't say to them as they do to me that "if you don't vote this or that way, you will not be sent back again." If my people have petitioned, I haven't heard them. I know who they are, and respect their views, but out of the 333 petitioners, barely fourteen of them have voted this year the Democratic ticket. I attempted to show in the first place that this bill, according to my experience, will not answer the purpose which the gentlemen believe it will. In the second place, I have attempted to answer the gentleman from Belmont. I, at least, so understood him to say, that the Democratic party would be taking a position contrary to right, because they would not vote for local option. Those are two of the points I have attempted to speak to. I thus believe, and shall so vote, against this amendment, and against the bill itself. Or if other amendments come up that I think may be a benefit, I shall vote upon them as they come up.

CHAPTER XIX.

THE DEBATE CONTINUED.—SPEECH OF MR. NORTON.

MR. SPEAKER, the arguments to-day have satisfied me of one thing, at least: That whisky and consistency won't mix; and that whisky and politics are like whisky, lemon and sugar,—kind o' good to take; at least you have mixed the two together most admirably upon each side of the House.

And I am satisfied, too, Mr. Speaker, from six years experience on the floor of this House, that one of the moving engines in politics is whisky; and it is but little

difference whether you have a Republican engineer in control of the machine, or a Democrat. I have not seen, as yet, a National try to run the concern, yet I cannot say that from the experience I have had with men, I would have much hope in that direction.

I have not seen a strict Prohibitionist yet in control of this machine, and yet I cannot say from my own experience, that I would have much hope in that direction. I have not seen that element in society that we all know to be the better class, have control of the machine, nor have I any hope, as long as vanity exists in men, of ever seeing the female portion of the community get control of it. I can say, however, taking humanity as a mass, that in that direction—and I am paying a very flattering compliment to the ladies, now—that I would have great hope, if we could fill these chairs with ladies exclusively, and then abolish, of course, any respectable drinking saloons, so that the ladies shall not go in.

Now, Mr. Speaker, this discussion has taken a very peculiar form.—"Tom, you done it!" "Dick, you're a liar!" "I didn't do it!" "You did!" and "Sixty-second," and "Sixty-first," and "Sixty-third General Assembly," has been brought up in array here. I don't know but what it is just as well so, too. I don't see how you can help it, to save your lives. I don't understand how you can avoid it, because, as I said in the beginning, whisky and consistency will not mix. And when these lobbies were filled in the sixty-second General Assembly, with people at least as respectable as those here to-day, and the responsibility of legislation rested upon the sixty-second General Assembly,—an "off" one from this,—I say to you that by subterfuge and cowardice you failed to meet the question. You simply did what has been done over and over again by a powerful majority that had power to take from the hands of any committee, you simply allowed one man, and one alone, to pocket the bill and carry it from the

House. I say to the temperance people, and to the orphans of the drunkards, I say to the wife of the drunkard, you have no hope in legislation. And when you come here and listen to the speeches that have been made upon the floor, and realize that the eloquence of the gentleman from Belmont (Mr. Alexander) will open the fountains of your hearts and bring tears to your eyes—I say to you, that after all this, that when that man has crossed the threshold of yonder door, you have no further hope in him. Why don't you expend some of the energy, some of the force that you devote to the eloquence upon this floor, in Belmont county? In ten minutes time, by filing an affidavit before a Justice of the Peace, you might start the wheel of revolution in Belmont county, that would wipe out, under the present laws, the nefarious practice of saloon keeping in your county. Have you had the moral courage to do that? I know you have not, sir. At least you never have done it, and you have lived, and you have had experience, and you have grown old in the Democratic party.

But you have responsibility resting upon you here, and you sit here, sir, upon this floor, and backed by this lobby of respectable people and with the eyes of these people upon you, you can grow eloquent. But do you think that the representatives of the people ought to place another law upon the statute books when you have not the courage to enforce the one that is there?

MR. ALEXANDER—I want to state to the member from Seneca, (Mr. Norton) who has been brandishing his fists, over in this direction, that I have always prosecuted men who have violated the law, in liquor cases, without the hope of fee or reward, and I always intend to.

MR. NORTON—Did you ever in your life, sir, file an affidavit against a saloon keeper?

MR. ALEXANDER—I never did, because I don't frequent saloons, sir.

MR. NORTON—I know you don't frequent them, and from that fact, I desire to say, yes, and boldly, that you haven't the courage to face the position you take upon this question. It is moral courage you want. It is not legislation.

The gentleman from Clarke, (Mr. Oglevee) has said that intemperance goes broadcast, drunkenness runs rife, and crime is committed, but you, an attorney, and the people of your county have failed to take a position on this question.

MR. OGLEVEE—of Clarke:—As the gentleman has alluded to my county, I may as well say this to him now, that we have prosecuted more persons for the violation of the liquor laws, and have assessed heavier fines, and collected more money out of the liquor traffic in Clarke county, than in any other in the State of Ohio.

MR. NORTON—And you have expended the money to extend the saloon interest haven't you ? because it grows constantly upon you ?

MR. OGLEVEE—Not at all, sir.

MR. NORTON—It would require no local option for you, sir, if you would only carry into effect the laws that are now upon your statute books.

Now, I have been interrupted and before I go further on this question, I want to state that I am not here to fight this bill. I care not how soon it is placed upon the statute books.

Now in the name of humanity, if you intend to do what is right, if you are in earnest in the suppression of intemperance, don't come to the Legislature to do it! You have tried local option; you have tried the prayers of women, invoked the aid of God. I have seen you six hundred strong, the earnest and eloquent Christian women of Columbus, surrounding this Capitol, in the rotunda of the Capitol, and yet when you called on Almighty God, you have failed to touch public opinion to such an extent as to

wipe out this thing. And will you do it when God Almighty fails? When Francis Murphy fails? When the virtue, piety, and earnest zeal of the good fail, will you do it by simply placing upon the statute books local option as to whether the people of a community shall indulge in liquor drinking or not.

MR. ALEXANDER—I want to ask the member from Seneca this question. He says we should have no more legislation in favor of temperance, because the present temperance laws are not enforced; I want to ask him if he is in favor of repealing all our statutes for the suppression of murder, because murders are absolutely increasing in this country, though the penalty be death?

MR. NORTON—No, Mr. Speaker, but I know well that had the gentleman but seen a murder committed in Belmont county, or a crime committed against the State, a robbery or simple burglary, the robbing of the house of a client, the gentleman would have filed an imformation without delay. But when he sees children robbed, when he sees the father thrown into the ditch, when he sees the family devastated, the home taken from them in the domain of his own county, he stands up and acknowledges on the floor of this House, that he has never filed an imformation against a saloon-keeper! Why, every man in that lobby, every man within the sound of my voice, knows it is a violation of our law, to pass across the counter one glass of whisky.

Ten thousands have gone over your counters to-day, and there is not one information filed!

MR. OGLEVEE—Is it unlawful, to-day, to pass over the counter a glass of beer or ale?

MR. NORTON—Why no, Mr. Speaker, but the gentleman wants to kill the maggot, and let the serpent live. What a remarkable temperance idea you have got! What a splendid idea for doing good to humanity you have got into your brain! You want to suppress liquor, but let

rum alone, when you know, sir, that you can do more good for the fatherless orphan by going out of this house, and drawing your salary at five dollars a day, and walking up and down these streets and enforcing the law upon the statute books.

I don't desire, as one of the medical fraternity, that you shall throw the responsibility upon the physicians, by saying that it shall be dealt out upon a prescription. I believe that I can poison by a prescription as well as I can outside of it; and if it is wrong to make a man drunk at ten cents a drink, or three for a quarter, it is just as wrong to make him drunk when you can charge him two dollars and a half for it. (Laughter)

You have got a law, if you have moral courage to enforce it, and you don't need anything else. And as I told you in the beginning, you have no right to sneer on that side of the House, or on this side of the House, because neither side had the moral courage, when you could do it, to place better laws upon the statute books.

I have seen the 61st General Assembly, with an overwhelming Democratic majority, veto this question ; I have seen the 62nd General Assembly, well, I was going to say at the very feet of King Alcohol, with a bill, and it would not attempt this legislation. You cannot deny it. You remember distinctly. It is not a question of politics for one side or the other. I say, if you had moral courarge, if you had honesty of purpose to do it, to-day, you might suppress, even without a law on the statute books.

I am told by one gentleman that the Sixty-first did pass a certain law. No, it is a mistake. The sixty-first repealed a certain law, and a howl went up all over the State that we were again extending the intemperance of the people. The Sixty-second came into power, but it didn't dare to replace it on the statute books. Honors are easy, so Democrat, so Republican. But if you look your wife in the face and say to her "Henceforth I am with you in the

suppression of crime by carrying out the law," then you will do something for the people.

You can do more by the blue badge, than by making speeches upon the floor of the House of Representatives.

Mr. Speaker, my friend from Fairfield, (Mr. Seifert), said the temperance movement was simply a piece of fanaticism. I don't desire to treat this question lightly. I would to God Almighty that you hadn't to consider it at all. I wish the better sentiment and moral influence of the American people were such as to suppress intemperance. I have no hope in law; I have no hope in maudlin sentiment; I have no hope in speeches from the rostrum. The only hope I have is in the honest education of the American people against this evil. Teach them by carrying out what law you have. If you find a temperance law, enforce it. But I say to you, now, that more good to the people of the State and the United States, has come out of that element of reform, the Murphy Movement, than all the legislation that we have had since—since I was going to say, since the birth of Christ, [laughter], and I am right about it. Whenever men have enough moral courage to carry out their own honest convictions we will have reformation; but without the good opinion of the public you have no law that can control men.

I know that I have a difficult side of the question to meet. I can not appeal to your prejudice; I can not hold up the iniquity of intemperance; I can not hold up the desolation of homes to you, by this traffic, upon this side of the bill, because I desire to strip it of all its embellishments, and go into the communities and look it in the face. I say to you that you must take the better judgment, and common sense, and moral influence of the public to sustain it.

Mr. Speaker, I have not made this speech as against this bill. I have not said what little I have said in favor of the bill; but I have said that the temperance people

who have gathered here to-day, looking to us for aid, may know they cannot receive aid here, for they must work out their own salvation. Mould public opinion up to it, but you cannot under a statute, or through prohibition, or by a law inconsistent, a law wrong from the standpoint of total abstinence, and from the standpoint of free trade.

MR. WILLIAMSON—As to the effect of legislation upon this evil, is the gentleman in favor of the repeal of all laws relating to this subject?

MR. NORTON—I am not in favor of wasting one penny's worth of paper and ink to change that law, because when I see that the public have no more interest in the law, that they will not enforce the law upon the statute books, I say that it is useless to encumber the statute book with more law. Why, I would say to the gentleman from Huron (Mr. Williamson) if you have the pluck, you can surround yourself by men of intemperate habits, even, by whose assistance you need not tolerate the evil, for a single day, within your corporate limits. I appeal to the gentleman from Clarke, (Mr. Oglevee) and the gentleman from Athens, (Mr. Townsend.) I appeal to you, gentlemen, as attorneys, if you dont't know, if your honest legal judgment does not tell you, that you have law enough upon your statute books, if properly enforced, to wipe out the sale of all whisky, by the drink, and intemperance thereby. Is it not true, let me ask the gentleman from Athens?

MR. TOWNSEND—I will answer that question: In the first place, the prosecution of a criminal must be conducted by the county prosecutor; in the second place, the sales are clandestine; in other words, there is a conspiracy between the seller and the drinker; in the third place, perjury in the grand jury room is common stock; in the fourth place, the criminal statutes are more than twice as hard to indict and prosecute under, successfully, as the civil statute; and I could give one hundred other

reasons going to show that the argument of the gentleman from Seneca and other gentlemen, is fallacious.

MR. NORTON—God help us! The gentleman has one hundred reasons! like the man who played poker that had twelve reasons for quitting; when he gave the first one, it was because he had no money, and he had no need to give the others. Perjury is common stock in our grand jury rooms, and yet we try to legislate against intemperance, while perjury is common stock in our State! Oh, we have had attorneys wasting wisdom mechanically, as they stand on the floor of this Legislature, and fight intemperance, while acknowledging that perjury is common stock within our State. How in the name of God, will you enforce temperance law when perjury is common stock? The prosecutor is a public official, and now, if you can not rely upon the prosecutor elected by the people, if you fail to get an honest prosecutor, how will you carry out the local option law, if the people elect a man who "stands in" with perjury as common stock?

The statutes are too large; they are incomprehensible to the people! The drinks are sold clandestinely! Look at the reasons the gentleman has given! Is it clandestine? When you can walk along your streets and see every ten feet or so, citizens and legislators taking whisky over the bar, it is clandestine! Every gentleman here very well knows this; and yet the gentleman says for one reason that drinking is clandestine! Oh, stop your motley sentiment, gentlemen! Put you shoulders to the wheel, and carry out, as you can, if you will, the statutes you have, for the good of yourselves and community.

CHAPTER XX.

THE DEBATE CONTINUED.—SPEECH OF MR. HITCHCOCK.

MR. HITCHCOCK—I hope, Mr. Speaker, to not detain the House at any tedious length by any remarks that I can make upon the pending question, which I understand to be the amendment proposed by the gentleman from Washington, although the discussion has gone through the entire provisions of the bill. That amendment seems to strike at the integrity of the bill itself. I am very glad, that for once, I find myself agreeing with my good friend from Richland, (Mr. Bloom) who happens to be absent from his seat, just now. The gentleman says he shall vote against the proposed amendment. So shall I. That is as far as we agree. We don't always agree even as far as that. I regret to know that when this question comes before that gentleman for his consideration, that he finds himself committed by a pledge, prior to his election, against any change in the liquor laws of the State. I thank God, Mr. Speaker, I was not called upon to make any such pledge as that. If the life of an individual, and his entire course during that life, upon a question of this kind, a moral question affecting the best interests of the human race, is not sufficient to satisfy his constituents who propose to vote for that gentleman, he is placed in a position that I never desire to be placed in. I don't suppose, Mr. Speaker, that, should this bill receive an affirmative vote by this House, and become a law of the State, that thereby the evils of intemperance would be arrested, or stopped. I have no confidence in any law thus resulting. Neither do I believe, Mr. Speaker, that by any one or more moral efforts for the suppression of intemperance without law, that result

can be reached. No reform in this world of ours does reach success, except the moral influence of the community is brought to bear in favor of it, at the same time; and there can be no reform, even by the strong arm of law, which stands unsupported by that moral influence. This question is what? It proposes to impose upon no county or in no township of this State, an operative law against the wishes of that county or township. It simply proposes to give to the people residing within any particular locality, the right to determine what shall be the law upon this subject. Is there any infringement of right?

A great evil rests upon the land and humanity,—an evil growing out of the use of intoxicating liquors as a beverage. Any such evil demands the best energies of all the people for its suppression.

What shall be done in regard to it? It is said that we have laws on our statute books that are not executed. That may be true. But the gentleman from Richland (Mr. Bloom) asks for one single reason or argument in favor of a proposition of this kind. I submit to the gentleman that when a majority of any community votes in favor of the enforcement of any law, you give to the enforcement of that law a power that it cannot receive simply by the act of the Legislature.

Understand, I don't advocate the passage of this bill, because I believe it will accomplish all the good that could be desired, but it is one of the steps sought to be taken by the advocates of reform.

And for one, Mr. Speaker, whenever there is presented to me an opportunity to take one of these steps, if little or large, whatever the confidence I may have in the result of that step, I stand prepared to take it with all the power God has given me, and I cannot but feel that he who stands in this, or any other presence, upon a question of this kind, and seeks to show that it ought not to be taken by this General Assembly, because some other General

Assembly has refused to take the step, is occupying a position no man, responsible to his fellowmen for the aiding and advancing of their best interests, can defend. It is said that the Sixty-first General Assembly avoided this issue. It is said that the Sixty-second General Assembly avoided this issue. It is said also clearly and distinctly, by my friend from Seneca, Mr. Norton, if I have not misunderstood him, that it will be avoided by this General Assembly.

MR. NORTON—Let me make a correction: The gentleman is right, except as to saying that it will be avoided by this General Assembly. I said I believed legislation upon this subject was avoided by all General Assemblies.

MR. HITCHCOCK—I trust the gentleman is not a true prophet. It seems to me that occupying the position which is occupied by all of us, we cannot make that declaration with regard to all General Assemblies, and not mean the present General Assembly. Therefore I believe I am not incorrect in the conclusion. But I fear what the gentleman says may be true.

MR. NORTON—You will at least give me credit for having spoken correctly in regard to the Sixty-second Assembly.

MR. HITCHCOCK—Very well, if the gentleman wants me, I will say that the Sixty-second General Assembly did avoid action upon the question presented to it, which was not at all the question of to-day, as the gentleman very well knows. It was not at all the question of to-day. What was that question? I will say, if the gentleman desires it, that the majority of the majority, were very decidedly anxious to act upon that subject, at that time, and make that a law, but they did not succeed. But that is not the question of to-day. That was the restoration of what was known as the McConnelsville ordinance to cities and incorporated villages in the State; not the submission of the entire question to the various localities

of the State; but by absolute law, extending that provision to the incorporated villages and cities of the State. It didn't effect townships and counties.

THE SPEAKER—Who was the author of that bill?

MR. HITCHCOCK—Mr. Carnahan. That is not the question of to-day. This differs insomuch that, if it should become a law it could not be operative in a single locality of the State, except the majority of the people of that locality desire it to be a law. The other was a law by absolute legislation, which makes it entirely different. Had this proposition been before that General Assembly, I cannot say what would have been the result. I can only say this, Mr. Speaker, that I have had, until this question came up this morning, hope that, whatever may have been the case before this, when 50,000 people of Ohio have petitioned for it, that this bill might pass.

I don't care, as my friend from Belmont, (Mr. Alexander) says, whether they are voters or not. I recognize the right of the mother, of the wife, of the sister, to ask protection of the law, as much as I recognize the right of the voter; yea, more do I recognize it upon a question of this kind, and for this reason, Mr. Speaker: This simply asks that the voters of localities may determine what shall be their law. When my mother, when my wife, when my sister, ask that they may be charged with the responsibility of saying what shall be law in this matter, in their localities, I repeat, I don't care whether those who sent in petitions here are voters or not.

I regret, Mr. Speaker, I regret not having had the honor to present more petitions from my own little county. Certainly when women are not allowed to go to the polls and help settle this question, their petitions ought to come with great force to us.

MR. NORTON—I think the total vote in the State was about 625,000 last fall, and there were 7,000 that had the honesty to vote the temperance ticket. What

hope have the wives, mothers, sisters, and children, when 625,000 vote against the idea, and only 7,000 vote for it.

MR. HITCHCOCK—Mr. Speaker, I want to say, in answer to the gentleman from Seneca, that perhaps I can give no reason sufficient for the gentleman, but I say this: what I believe the women of Ohio feel, what I know they feel in my county, that they are willing to trust my action upon this question, as are my constituents without a pledge beforehand. The gentleman asks what consistency there is in only 7,000 voting the temperance ticket.

MR. BLOOM—I just wish to ask the gentleman, what he would do if he were publishing a paper, and the various political managers were putting questions to him as a candidate, would you answer them or keep quiet?

Mr. HITCHCOCK—Well, I am not publishing a paper, and never did publish a paper, and don't expect to publish a paper, and I can't tell how an editor feels under such circumstances who is a candidate? [Laughter.]

MR. BLOOM—Does the gentleman desire to do me injustice, in placing me before the General Assembly as a person whom his constituents require to be pledged?

MR. HITCHCOCK—I answer the gentleman that so far as his interests are concerned, I don't desire to do him any injustice; I simply referred to the gentleman's own statement in the matter. If I was an editor, and the question was asked me, I would do about answering, just what at the time, I felt was right, and that is just what I would do about it without being an editor.

MR. BLOOM—Will the gentleman allow me to ask, wouldn't he like to know how a gentleman stood before voting for him?

MR. HITCHCOCK—Yes, sir, but my life and my vote, almost for twenty-one years past, has shown what I thought upon this question, and I don't think it has been changed before or after election.

Now, my friend from Washington, (Mr. Bohl), and the

gentleman from Richland, (Mr. Bloom), and perhaps others, I have noticed, Mr. Speaker, in the discussion of this question, advanced the idea that the enactment of a law of this kind could not accomplish any good whatever, but the very thing needed is a license law. Now, Mr. Speaker, the question of license or no license is not before the General Assembly at this present time. It cannot be before the General Assembly except as a proposed amendment to the constitution, as the gentleman very well understands. I am very ready for it to be submitted—not by my vote, but I am ready, if this General Assembly desires, to submit that question.

I notice that at the election in 1874, when the question of license or no license was again submitted to the people of Ohio, the county of Washington, also decided against license by about a thousand majority. I did not look in regard to the county of Richland.

MR. BLOOM—My county gave about 300 majority against it, the extreme saloonists, and the extreme temperance men voting together.

MR. HITCHCOCK—I know that is the argument, but is not that a unique idea, the extreme temperance people, and the extreme saloonists uniting to defeat that provision of the constitution? They decided against it, at all events, as I understand perfectly well. Now, the question has been submitted, and is not now before us. But here is a question before us, and it is not a question asking the people of Ohio whether there shall be power to license the traffic in intoxicating liquors in Ohio; it is to submit to each of the several localities whether they desire any different law upon the traffic in intoxicating liquors.

It is a question that comes to all of us with force, from the fact that we know it is sought for, by the most earnest laborers for the reform of the evils flowing from the effects of intoxicating liquors. It is forcible, also, from the fact that these people have sent to us a large number of peti-

tions: and it is also a fact very evident to us, now, with this question undisposed of, that these petitions have just begun to come in. Why, this very day more than 7,000 petitioners have asked for the passage of this particular bill!

This shows that we are called upon to consider this question. The people don't come to us and say to us, make this a law. That is not the character of the people of Ohio; but they come to us, and with earnest seeking, ask of us that we will carefully consider it, in the light of all that can be brought to bear upon the subject, and our best judgment, and that of the community to aid us, that we shall make it a law. That is the position we occupy here to-day, with all this pressure brought to bear upon us.

I do deprecate, Mr. Speaker, this thing of seeking to regard this as in any sense a political question. I sometimes am very glad to hear my good friend over there, (Mr. Bloom), get up on this floor and oppose something upon political considerations, but I confess, knowing the characteristics of that gentleman, that I didn't like to hear him refer to this side of the House, and I say to my good friend from Richland, it seems to me, he could not have so far forgotten himself as to refer to "the other side of the House."

MR. BLOOM—You were holding the lash over me.

MR. HITCHCOCK—Now, if anybody holds the lash over the gentleman from Richland, that gentleman will have hold of the butt of the whip. In fact, I don't know of anybody who would attempt to lash the gentleman from Richland, if once they saw him wield the whip as he did to-day. But the gentleman, I suppose, is sorry he said that.

MR. BLOOM—No, I am not.

MR. HITCHCOCK—Not sorry? I very much regret that.

I said I had some hopes of you gentlemen on the other

side of the House. I was sorry all the time, to believe that there were some upon this side of the House that would vote against the passage of this bill, but I was rejoiced with the encouragement which I received upon the various votes that had been taken upon this and kindred subjects, to know that a number of votes on the other side of the House were for this measure. If I am about to be disappointed, I regret it very much.

But I say, if it be so, it necessarily presses upon me the conviction, as it must upon all others, that, for some reason, political considerations have entered into the consideration of this subject, which ought before all others to be considered only with reference to duty and the wishes of the people as expressed.

CHAPTER XXI.

THE DEBATE CONTINUED—SPEECHES OF MESSRS. LUCCOCK, AND SULLIVAN OF MIAMI.

MR. LUCCOCK—I realize the fact I am here as the Representative of the people, and as one of the law-makers of the people; and I realize that a responsibility rests upon me. And feeling as I do upon this subject, I am opposed to this amendment, and in favor of the bill. I don't wish to occupy much of your time, but as I had the honor to be a member of the Sixty-second General Assembly, and with the assistance of my Democratic friends put my Republican brethren upon the record, I think I am entitled to use, at least ten minutes of this precious time. But now let me say, Mr. Speaker, that I have, in my life time seen scenes that excited my surprise; but of all the scenes I have witnessed to my surprise and astonishment, it has been to see an intelligent member of this body get up on this floor, in his place, and say that

the people of the state of Ohio don't desire any more temperance legislation, in the face of the fact that, within the last sixty days, there has been a perfect avalanche of petitions from the intelligent voters and citizens of this State, asking for additional temperance legislation.

But, if the gentleman is ignorant of the fact, if he will come to my desk after the adjournment this evening, I will show him a record of at least 35,000 citizens of the State of Ohio, asking this Legislature that they pass a local option law.

But for a man, on this floor, to get up, in view of the legislation upon this subject since the year 1651 down to the year 1879, and talk about what he calls—what did you call it? One of those big dictionary words—

A MEMBER—Sumptuary.

MR. LUCCOCK—Sumptuary laws. [Laughter]. A sumptuary law! Did this Legislature of Ohio ever pass sumptuary laws to protect religious associations, camp-meetings and religious bodies, from the evils resulting from the sales of intoxicating liquors? Is there not, on the statute books of the State of Ohio, to-day, a law that prohibits any man selling liquor within two miles of a camp meeting ground? within two miles of other corporate bodies that meet? and what is that, but, in the estimation of the gentleman, a sumptuary law? Now in all good conscience, if people meeting together to worship God; if people meeting together in a social capacity, a sunday school association, if laws protecting them are not sumptuary laws, I want to know if the defenceless women and children of this State do not need protection? I ask in all conscience, I appeal to your judgment as intelligent men, and representatives of the people, if there is any consistency in passing a law by which you shall not sell liquor within two miles of a camp meeting, and refusing to pass a law that would protect a man in his family circle?

Now, gentlemen have talked upon this floor, this after-

noon, as though this were a new thing in legislation, upon the sale of intoxicating liquors. I think, if these gentlemen who talk about—about this—what did you call it? [Laughter] sumptuary law, would turn back and read the history of their country during the colonial days, they will find that in 1651, the little settlement on Long Island passed a law restraining the sale of intoxicating liquors. He may look back a little further in history. In 1637 they passed a license law by which there was an embarrassment placed upon the sale of liquor, where it was sold for more than one penny a quart. They thought by making it so cheap, it could not be sold for a penny a quart; it would be so much like the milk that is sold in Columbus, it would not be sought after. [Much laughter.] They found that this law passed in 1637, didn't meet the object, consequently, the settlement in Long Island adopted a law not very far different, in provisions, from the bill before the House this afternoon. In 1655, a settlement in Connecticut passed another law. That was a little beyond the time when the young gentleman was born; a little further back in antiquity. I don't presume that he remembers it. [Laughter.] I think that law was, that no man could sell intoxicating liquors in the settlement, unless he had the consent of the settlement. Now, we come down to 1846, when what is known as the Maine Prohibitory Law was passed. It was amended again in 1851, making a provision that they could confiscate all the liquor that was sold contrary to law, if my memory serves me right. I presume that the citizens of Maine, perhaps will compare very favorably with us, in point of temperance. One of the provisions of that act was, that the Governor appointed a superintendent, under the law, who furnished each county with the requisite allowance that was to be sold for medicinal purposes, alone.

It was found necessary to make that law a little stronger, and in 1851, or '56, I forget which, '56 perhaps, they

amended it so as to put in this clause, that they were to confiscate all liquors sold illegally, according to the Maine Law. In 1873, the Maine Law was amended again so as to incorporate a provision that is contained in what is known as the old Adair Law, passed by the Ohio Legislature in 1870. It is the law that has been passed in Maine, entirely as a temperance law which has provisions in it that are in the Adair Law; that is, giving compensation to persons who are injured by the sale of intoxicating liquors.

Vermont has a local option law; New Hampshire has a local option law; North Carolina has a local option law, pretty much like the one we have proposed here. California has a local option law; New Jersey has a law similar to the New York State law, which gives persons who are injured by the sale of intoxicating liquors, the right to recover, as it was under the old Adair Law. Arkansas has a local option law, and one provision of the Arkansas local option law I like better than I do this. It requires that a majority of the citizens, men and women, shall sign a permit before a man can sell liquor, under any circumstances, in that State. Iowa has a prohibitory law; Illinois has incorporated in their temperance laws, the same provisions as the Adair Law. Michigan has the same. I could go on and enumerate State after State that have passed these laws; and yet intelligent gentlemen on this floor undertake to say that the 35,600 honest citizens that have asked for the same kind of legislation, are fools, and are asking for what they ought not to have. Now, one of the intelligent gentlemen upon this floor has talked very wonderfully and eloquently about what the Murphyites are doing, and don't believe in legislation. He is a great man for moral suasion. That is all right enough, but there are other questions entering in here.

This law may be inoperative in the city. We grant it. We want protection in the country. I ask any intelligent gentleman in the House to go through the city of Colum-

bus; visit business establishments; others to go to Cincinnati and go through the business establishments there, and go to the seaboard states and in their cities, and ask of the majority of the enterprising and intelligent business men who make the world move, where they were born, and where they were raised, and I venture the assertion that in three times out of five, yes, nine times out of ten, they were born and reared in rural districts. They have raised the corn and beef and pork, to feed the populous cities, and they furnish the muscle and the brain to conduct the business; and we want legislation that will enable us to keep them good and strong. We have got the ability to do it if you give us a vote on the question. I don't wish to take a political view of this question.

I am a little like the old lady out in Wisconsin. She said it always gave her the heart-burn to eat corn bread. One day they told her that corn was what they made whisky out of. Well, said she, ever since she heard that argument, she had worried down a good deal! I think if the sixty-third General Assembly will pass a strong local option law, I can worry down a good deal of it. [Laughter]. I don't care where it comes from, gentlemen, if you will give us a law that will protect our firesides, that will protect our children, that will protect our wives, that will protect our best interests.

Another thought and I am done: Some of the gentlemen on the floor talk about consistency; and while they were talking about consistency, it reminds me a good deal of that couplet of Scotland's favorite bard:

> "Wad some good power the giftie gi' us,
> To see oursel's as ithers see us,
> From many a blunder it would free us," &c.

Even the Sixty-second General Assembly advocated a measure, in some degree the same that I am advocating to-day, and at that very time there was a bill upon our bill books putting a severe penalty upon the sale of illuminating oil, and I appealed to gentlemen on this floor,

about the inconsistency of putting such severe restrictions upon the sale, when it was a known fact that there was not one life destroyed by an accidental explosion of lamps in the use of this oil, for one hundred that were destroyed in this State by the use of intoxicating liquors.

Somehow or other that bill, with the shame of it, was defeated, but last winter it came up again, and was passed; thereby building up an important monopoly, by taxing one of our most important products, one of our most important necessities, one of our great luxuries; taxing light! Still these gentlenen, before they would pass a law to protect us against the evil of intemperance, I have no doubt would pass a law modifying and limiting the light of the sun, if they could. They have put a revenue upon light, increasing the cost of it, and building up a monopoly, and stand here to-day and talk about sumptuary laws. [Laughter.]

MR. SULLIVAN, of Miami—I don't know that I need to add anything upon the subject after its being so ably discussed as it has been, by those who have preceded me. If I understand the gentleman from Richland, (Mr. Bloom) right, and the gentleman from Seneca, (Mr. Norton,), Mr. Speaker, they have no disposition to have the present laws pertaining to the use of ardent spirits wiped from the statute books. If I am mistaken I would like to be corrected. The very fact that a license law is advocated by the gentleman from Richland, itself implies that, in its very nature, there is something wrong in the sale of ardent spirits, of intoxicating liquors.

Now, this bill, as I understand it, is intended to reach that result more directly, and in a more simple manner than that which exists under the law upon the same subject. The old law, as I understand it, provides that the matter shall be presented to the grand jury, and an indictment must be had, and it must go through all the forms of a criminal prosecution, which was very detrimental to those

who engaged in the enforcing of it. That is now all I have to say upon that subject. This bill is a better one by far.

Now, I did not come here with any pledge. I was not obliged to give one to my constituents, only what has been exemplified in my life and character, before them; that is the only pledge I gave; no verbal pledge to any one, upon this subject. I should not have risen from my seat if it was not for the purpose of referring more particularly to the remark made here that the signers of these petitions were not all voters. I meant to say that our petitions from Miami county are not signed exclusively by voters; and there was one with not a voter on it; but, sir, I presented it because the citizens have a right to be heard on this matter; and I say that I would more readily vote for this bill if every petitioner was a woman. I must relate a circumstance, and I desire to have every member of this House hear me on this subject when I read over the names on that petition. I found the names of these mothers that have, each of them, a son in the State's prison, brought there directly from intemperance. This I know to be a fact. And another case by a wife whose husband is now here listening to us; and I have known him for twenty-five years to be harmless in all the relations of life, when out from under the influence of intoxicating liquors. In another instance there are three sisters who signed this petition, who have a brother languishing in this penitentiary. And I say they have a right to be heard. Indeed, sir, Mr. Speaker, I would vote more freely for this measure, because they suffer more from this than the male population. And I will further say, while I have the floor, I have lived a long while; longer I presume, than most of the members on this floor, and this subject has made some progress in forming public sentiment against the vice of intemperance. I have seen the day when men would take a bottle of whisky and carry it, in open daylight, through the streets. Not a gentleman on this floor would venture his reputation

to do that to-day. Now, I will further state, that I have never, in the history of my life—in the dim distant past of my life, met a man so far sunken in degradation as to wish the demon of intemperance to enter his threshold. He may talk flippantly when it is outside, but let it enter his own door, and I tell you, he will be the first man to say, "Give us laws to punish it!" I know this to be a fact. I want the people to have a chance to vote upon this question, the great safeguard around us. If the townships don't adopt this law, they are responsible for the expenses of the criminal cases growing out of the cause of intemperance. Give us local option, in the true legitimate sense of the word, and let us manage our own affairs in our own way.

At the close of Mr. Sullivan's speech, the House took a recess until 10 o'clock on the next day—when, upon assembling, the question still being upon the passage of the bill with the pending amendment, Mr. Poe obtained the floor, and addressed the House at great length in opposition to the bill, going over the same ground that had been gone over by others, that spoke in opposition to it the day before : that the present liquor statutes were sufficient to suppress the traffic if enforced.

He was followed by Mr. Thorpe of Ashtabula, in a strong speech in its favor, in which he alluded to the condition of affairs in the country districts, their want of police regulation, the demands the people were making for the passage of the bill, &c.

Mr. Thorpe was followed by Mr. Worley, who made a long and somewhat rambling speech against it, in which he charged that the temperance people of the State were responsible for the present evils of intemperance by reason of their constant agitation of the question, and asserted that the people of the State placed confidence in the Democratic party, and looked to it to defeat the bill.

Mr. Williamson then spoke at considerable length in favor of the bill, making an able argument, followed by Mr. Townsend, also in its favor. This closed the debate, near the end of the second day. The House then came to a vote on the pending amendment, and after sundry other amendments offered and voted down, a vote was reached upon the bill itself, as related in a previous chapter, where the vote is given in detail.

There was no stenographic report taken of the speeches that were made in the second day's debate. It was thought to be unnecessary, because of the wide range taken the first day, about all the points and propositions for or against the principle of the bill, its practicability and necessity, having been raised and pretty fully discussed.

It is but an act of justice to the gentlemen making these speeches, to state that they were delivered impromptu, and without knowledge on their part that they were to be reported. A few of them have been slightly shortened, by leaving out portions that were thought to be the most immaterial to the subject under discussion, for the purpose of getting them into a smaller compass. The others appear *verbatim*.

CHAPTER XXII.

BRIEF HISTORY OF TEMPERANCE LEGISLATION IN OHIO.

THE Constitution of 1802 was silent on the question of the sale of intoxicating or other liquors. As the then young State was probably in need of revenue, the question of licensing the sale of liquors seems to have engaged the attention of the Legislature at that early day. At that time, and on up until a comparatively recent period, liquors were only sold at taverns, as the hotels were then called, or at eating houses. The saloon system of to-day was unknown. No one seems to have ever attempted to open a room for drinking or tippling, disconnected from a house where the substantials of life could be procured. That was left for modern ingenuity to devise, plan, and execute. The gilded palaces of modern time, with their fine counters and French plate glass mirrors, and with their long list of wines and liquors, as found in the cities of to-day, had no existence then.

Neither had the lower grade of saloons, the dark, dingy, dimly lighted, low down dives of these latter days, any existence then. They are a fungus growth that have fastened themselves upon society, under a constitution and laws made in pursuance thereof, that recognizes neither entire prohibition, nor license, and in effect like some great cancer on the body politic, sending its roots and poison into every part of the system.

Under an Act of the Legislature, passed on the first day of February, 1805, entitled "An Act for granting license and regulating ferries, taverns, and stores," it was enacted that no person should be permitted to keep a tavern, or sell, barter, or deliver for money, or other articles of value, any wine, rum, brandy, whisky, or other spirits or strong drink, by less quantity than one quart, or any cider, beer, or ale, by less quantity than one gallon, unless the person should have first obtained license from the associate judge of the proper county, or a permit from the clerk thereof. In the recess of the court, such license could only be granted on application to the associate judges or clerk, when supported by the petition of twelve householders of the township and in the neighborhood where the tavern was

proposed to be kept. The applicant was also required to advertise his intention at least thirty days before the setting of the court to which he intended making application, in three of the most public places within the township, and keep an advertisement of the same on the court-house door, during the first ten days of the term.

The same act provided a penalty for any person licensed as a retailer of wine, spirituous liquors or strong drink, knowingly allowing, or permitting any kind of betting or gaming for money, or any other article of value, either at cards, billiards, bowles, shovel-boards, fires, or any other game of hazard or chance, to be played or carried on within their house, shed, arbor, or other places in their occupancy, or suffering any disorders, revelings or drunkenness therein.

Another section provided, "That if any person should retail any liquor or strong drink, without having first obtained a license or permit therefor, the person so offending shall forfeit and pay for every such offense, a sum not exceeding thirty dollars, to be recovered as other fines under this act are recoverable."

Under an act, for the prevention of certain immoral practices, passed February 14th, of the same year, it was made an offense for any person being intoxicated to be found making or exciting any noise, contention or disturbance, at any tavern, court, election or other meetings of the citizens for transacting or doing any business appertaining to or enjoined on them, under penalty.

In 1809 an act to prevent the selling of spirituous liquors to the Indians was passed, providing that if any tavern-keeper, or other person or persons, should sell or barter any spirituous or other liquids of intoxicating quality, to any Indian or Indians within this State, or convey or attempt to convey, or be instrumental in conveying any of the aforesaid liquors or liquids out of this State, with an intent to dispose of the same to any Indian or Indians, unless authorized by the proper authority, such person or persons should forfeit and pay a fine not exceeding one hundred dollars, nor less than five dollars, to be recovered with cost of suit, by indictment in the county where the offense was committed.

An act was passed on the 8th day of Febuary, 1810, repealing the acts of February, 1805, and March 14th, 1809,

and re-enating the former laws on the subject with but few slight changes.

By section three of this act, beer and cider were excepted from the operation of the statute, entirely, and were permitted to be sold without license.

By section twelve of this act, prosecution for the violation of the act did not go before a grand jury, but jurisdiction was given to justices of the peace. This statute remained in force until January 5, 1819, when an act was passed requiring that the applicant should produce a recommendation, in writing, subscribed by twelve or more reputable landholders, residing in the neighborhood of the place where it is proposed to establish a tavern, setting forth that a tavern is needed at such place, and that the applicant is a suitable person to keep a tavern.

It also provided that it should not be lawful for any tavern keeper to sell upon credit, to any person resident of the county where such tavern is kept, or within ten miles of such tavern, liquor of any kind to a greater amount than fifty cents; and no tavern keeper or his assistant could recover in any action whatever, a greater sum than fifty cents, for liquor sold to any person resident of the county where the tavern was kept.

Also, that if any person other than a tavern keeper should sell or retail, any kind of spirituous liquors, to be drank at the place where sold, every person so offending should forfeit and pay any sum not exceeding twenty dollars. It was also provided by this act that any incorporated town might license taverns, conformably to its charter, subject to the conditions of the statute in regard to recommendation.

On February 25, 1820, an act was passed consolidating the then existing statutes, by which some important modifications were made, as follows: It was no longer unlawful to sell liquors upon credit. It was made unlawful for a tavern keeper to permit gambling in his house, or rioting, reveling, gambling or drunkenness on his premises.

The provision in regard to sales of liquors was modified so that if any person other than a tavern keeper should retail any kind of spirituous liquors, by less quanity than a quart, every person so offending should forfeit a sum not exceeding twenty dollars. This was a very important modification of the statute, changing the statute as it did,

so as to permit the sale of liquor in any quantity of one quart and over without license, and also taking away from the law the restrictions against selling it to be drank upon the premises where sold.

There was left out of section seven the clause construing the section so that it should not take from any incorporated town the privilege of licensing taverns conformably to its charter.

On January 29, 1829, an act was passed to regulate grocers and retailers of spirituous liquors, by which the Courts of Common Pleas were authorized, upon application, to grant license to any person to keep a grocery and retail spirituous liquors, on the payment of from five to fifty dollars per annum, upon petition of twelve respectable householders of the vicinity of the grocery, and thirty days notice by posting advertisements of their intention to apply, and provided severe penalties for selling without such license.

This statute authorized for the first time in Ohio, sales of liquors in less quantities than one quart at any place other than a tavern. All persons selling at groceries were subject to the same penalties as tavern keepers for permiting rioting, drunkenness or any kind of gambling in such establishments.

March 3, 1831, there was a general codification and revision of the statutes relating to the granting of licenses and regulating taverns, repealing the acts of Feb. 6, 1824, and Jan. 28, 1821.

By this act, before a license could be obtained, the application must be supported by evidence of twenty days' notice having been given by advertisement of the intention to apply, and the court, upon being satisfied that the applicant sustained a good moral character, was authorized to grant it. It provided that ten or more respectable freeholders, residing in the neighborhood, might remonstrate, in writing, against the granting or renewing of any license. It also required the judge to give the act in his charge to the grand jury at each term of court. Any party selling any spirituous liquor, to be drank on the premises where sold, or in less quantity than one quart, without being licensed, was subject to a penalty.

On Feb. 24, 1834, there was an act passed declaring the true intent and meaning of the act of 1831, to be, that no persons, except those residing in cities, towns, or vil-

lages, or within one mile thereof, should be deemed to be tavern-keepers, unless such persons should keep for the purpose of sale, barter, or giving away gratuitously, any liquors, spirituous, vinous, or malt, or any mixture of any or all of the same. This act also provided that the penalty for selling without license, might be recovered in a civil action, in the name of the State of Ohio, before a justice of the peace or mayor, as well as by indictment, and give the right of appeal in such cases—thus giving for the first time a remedy for the violation of liquor statutes by civil action, or criminal, as the prosecutor might choose.

An act of 1839 provided that no tavern license should be construed to authorize the sale of liquors in less quantities than one quart, in any other than the common bar room, usually occupied as such for the reception of travelers.

February 3, 1845, an act was passed, providing that whenever any remonstrance should be presented to the court against granting any tavern license, petitioned for, it should be the duty of the court to receive and consider the same, whether such remonstrance contained any statement of facts other than the general dissent of the remonstrants, or not, and the court might, in its discretion, grant or refuse the license prayed for.

By this law of 1845, an important and radical change was made, and the principle of local option in the sale of liquors recognized. This act was repealed by an act of February 8, 1847, and again revived by an act of February 24, 1848.

On February 8, 1847, an act was passed, leaving the question of the granting of licenses for the sale of intoxicating liquors, to be determined by the votes of the qualified electors of the townships. If a majority voted against license, it was unlawful for the court to grant to any person whatever, any license to sell in such township, during the next year.

This act extended only to the counties of Cuyahoga, Delaware, Trumbull, Mahoning, Franklin, Geauga, Lake, Ashtabula, Preble, and Marion.

March 12, 1851, the same year that the present constitution was adopted, there was an act passed "To restrain the sale of spirituous liquors, which may be said to be the foundation of the present liquor statutes.

Section one provided that if any person should sell, vend, or give away with intent to evade the provisions of the act, any spirituous liquors of any kind whatever, to be drank in the place where sold, or by less quantity than one quart, or to any person under sixteen, the person so offending, on conviction, shall be fined in any sum not less than five dollars, nor more than twenty-five dollars. It excepted from the operation of the statute, spirituous liquors sold for medicinal and pharmaceutical purposes.

The second section provided that all prosecutions under the act should be by indictment in the Court of Common Pleas, or before some justice of the peace, except that in any incorporated city or town, the prosecutions might be brought before the Mayor or other officer having judicial powers. Section three provided that in the prosecutions, it should not be necessary to allege or prove the kind of spirituous liquor sold, but simply that it was spirituous. Section four provided that all laws, or parts of laws, licensing the sale of spirituous liquors, inconsistent with the provisions of the act, were thereby repealed. This act took effect May, 1, 1851.

January 19, 1853, the act granting license in certain cities, passed in March, 1831, and the act amendatory thereof, passed March 7, 1835, were both repealed. They had been rendered nugatory by the adoption of the new constitution in 1851, but had remained in the statutes until that time.

On March 12, 1853, there was an act passed, "Further defining the powers of trustees of townships," by which authority was given to township trustees, to suppress all houses, shops, or stores, known as places of habitual resort for tippling and intemperance, under such rules and ordinances, and by the imposition of such fines and penalties as they might deem proper, provided that no fine should exceed fifty dollars, nor any imprisonment in the county jail be for a longer time than twenty days. A majority of the trustees could pass these ordinances at any regular or special meeting of their board. They were required to publish them four weeks in some paper published in the county. They were required to furnish the justices of the peace in their townships with certified copies of such ordinances, and it was made the duty of the justices to enforce them in such townships as they were established, upon

complaint filed, charging any person with a violation of them, by signing a warrant for the arrest of the defendant. It provided that the defendant might have the benefit of a trial by jury. It also gave the defendant the benefit of certiorari, error, or appeal to the Probate Court of the county. The provisions of the act did not extend to any city or incorporated village in the State. The party filing the complaint was required to give security for all costs that might accrue, should the defendant be found not guilty.

This statute was the outgrowth of the dominant feeling throughout the State at that time, to have entire prohibition of the traffic, under the new constitution. Probably the greater portion of all those who voted against license in 1851, had done so with the belief and expectation, that should the vote on the question of license result against it, that thereafter, no intoxicating liquor could be sold anywhere in the State. But in this belief, if entertained, they were destined to be disappointed. This statute was repealed the following year, probably on the ground of its unconstitutionality.

May 1, 1854, there was an act passed "to provide against the evils resulting from the sale of intoxicating liquors," that enlarged and rendered much more effective the statute of 1851, heretofore referred to. It was by far the strongest statute on this question that had yet been passed since the adoption of the new constitution. It consisted of thirteen sections in all, the first six of which, and the ninth, are given in full. They were as follows:

SEC. I. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be unlawful for any person or persons, by agent or otherwise, to sell, in any quantity, intoxicating liquors, to be drank in, upon, or about the building, or premises where sold, or to sell such intoxicating liquors, to be drank in any adjoining room, building or premises, or other place of public resort connected with said building.

SEC. II. That it shall be unlawful for any person or persons, by agent or otherwise, to sell intoxicating liquors to minors, unless upon the written order of their parents, guardians, or family physician.

SEC. III. That it shall be unlawful for any person or persons, by agent or otherwise, to sell intoxicating liquors, to persons intoxicated or who are in the habit of getting intoxicated.

SEC. IV. That all places where intoxicating liquors are sold in violation of this act, shall be taken, held, and declared to be common nuisances, and all rooms, taverns, eating-houses, bazaars, restaurants, groceries, coffee-houses, cellars, or other places of public resort, where intoxicating liquors are sold in violation of this act, shall be shut up

and abated as public nuisances, upon the conviction of the keeper thereof, who shall be punished as hereinafter provided.

SEC. V. That it shall be unlawful for any person to get intoxicated, and every person found in a state of intoxication, shall, upon conviction thereof, be fined in the sum of five dollars, and imprisoned in the county jail not more than three, nor less than one day, and pay the costs of prosecution.

SEC. VI. That every person who shall, by the sale of intoxicating liquors, contrary to this act, cause the intoxication of any other person, such person or persons shall be liable for, and compelled to pay a reasonable compensation to any person who may take charge of, and provide for, such intoxicated person, and one dollar per day in addition thereto, for every day such intoxicated person shall be kept, in consequence of such intoxication, which sums may be recovered in a civil action, before any court having jurisdiction thereof.

SEC. IX. That the giving away of intoxicating liquors, or other shift or device to evade the provisions of this act, shall be deemed and held to be an unlawful selling within the provisions of this act.

Sections seven and ten of the act of 1854, were amended by act of April, 1870, taking effect July 4, of same year. They became known afterward throughout the State as the Adair Law, taking their name from the name of the Representative from Carroll county, who introduced the bill making the amendments in the House. They are given in the subjoined statutes in the next chapter.

In April, 1875 there was an amendment added to section seven, greatly weakening it in effect, requiring that any person desiring to prevent the sale of liquor to any one, should give notice, either in writing or verbally, before a witness, to the person selling, or the owner or lessor of the premises, wherein such intoxicating liquors were sold or given, or file with the township or corporation clerk in the township, village or city, notice to all liquor dealers not to sell to such person intoxicating liquors after ten days from date of filing such notice.

This amendment, together with the amendment to section 199 of the Municipal Code the same year, related in the introductory chapter, did more to destroy the efficiency of the liquor statutes in the State, than had ever been accomplished in that direction before. This legislation was as unexpected to the temperance people of Ohio, as it was surprising, following as it did so closely in the wake of the women's crusade movement.

In April, 1874, there was an act passed, protecting the inmates of the Ohio Soldiers' and Sailors' Orphans' Home and those living at the Reform Farm, from the sales of intoxicating liquor.

CHAPTER XXIII.

THE LIQUOR STATUTES AS NOW IN FORCE IN OHIO.

ALL of these sections are taken from the revised Statutes of Ohio, as codified in 1879. They all took effect January 1, 1880.

SEC. 6813. Whoever, while in a state of intoxication, prescribes or administers any poison, drug, or medicine to another, which endangers the life of such other person, shall be fined not exceeding one hundred dollars, and imprisoned not more than twenty days.

SEC. 6940. Whoever is found in a state of intoxication, shall be fined five dollars.

SEC. 6941. Whoever sells intoxicating liquors to be drank in, upon, or about, the building or premises where sold, or in any adjoining room, building, or premises, or other place of public resort connected therewith, or sells intoxicating liquors to a minor except upon the written order of his parent, guardian, or family physician, or to a person intoxicated, or in the habit of getting intoxicated, shall be fined not more than fifty nor less than five dollars, or imprisoned not more than thirty nor less than ten days.

SEC. 6942. A keeper of a place where intoxicating liquors are sold in violation of law, shall be fined not more than one hundred, nor less than fifty dollars, or imprisoned not more than thirty nor less than ten days, or both; and upon conviction of such keeper, the place where such liquor is sold shall be deemed to be a common nuisance, and the court shall order him to shut up and abate the same, unless he makes it appear to the court that he does not then sell liquor therein in violation of law, or gives bond, payable to the State of Ohio, in the sum of one thousand dollars, with sureties to the acceptance of the court, that he will not sell liquor therein in violation of law, and will pay all fines, costs, and damages assessed against him for violation of the laws relating to the sale of intoxicating liquor; the provisions of the last section concerning the sale of intoxicating liquors to be drank at the place where sold, and this section, do not extend to the sale of wine manufactured of the pure juice of the

grape cultivated in this State, or beer, ale or cider; and the giving away of intoxicating liquor, or other shift or device to evade the provisions of this and the last section, shall be deemed and held to be unlawful selling.

SEC. 6943. Whoever buys for or furnishes to a person who is at the time intoxicated, or in the habit of getting intoxicated, any intoxicating liquor, or buys for or furnishes to a minor, to be drank by such minor, any intoxicating liquor, unless given by a physician in the regular line of his practice, shall be fined not more than one hundred nor less than ten dollars, or imprisoned not more than thirty nor less than ten days, or both.

SEC. 6944. Whoever sells or barters any spirituous liquors on the first day of the week, commonly called Sunday, shall be fined not more than five dollars.

SEC. 6945. Whoever sells, or exposes for sale, gives, barters, or in any other way disposes of any spirituous or other liquors, or any articles of traffic whatsoever, at any place at or within the distance of four miles from the place where any religious society or assemblage of people is collected, or collecting together, for religious worship, shall be fined not more than one hundred nor less than ten dollars. This section does not extend to tavern keepers exercising their calling, or distillers, manufacturers, or others prosecuting their regular trades at their places of business, nor to any person disposing of any ordinary article of provisions, excepting spirituous liquors, at his residence, nor to any person having a permit from the trustees or managers of any such religious society or assemblage, to sell provisions for the supply of persons attending such religious worship, their horses or cattle, and who is observing the regulations of such society or assemblage, and the laws of the State.

SEC. 6946. Whoever sells intoxicating liquors at, or within twelve hundred yards of, the administration or main central building of the Ohio Soldiers' and Sailors' Orphans' Home, or within two miles of the boundary lines of the Ohio Reform Farm, located south of Lancaster, Fairfield county, or within two miles of the place where any Agricultural Fair is being held, shall be fined not more than one hundred nor less than ten dollars, or imprisoned not more than thirty days, or both: and, on conviction of the owner or keeper thereof, the place wherein such intoxica-

ting liquors are sold, may, by order of the Court, be shut, and abated as a nuisance.

SEC. 6947. Whoever conveys into a jail any spirituous or malt liquor, or wine, or having charge of a jail, knowingly permits a prisoner confined therein to receive any such liquor, except the same be prescribed by a physician as medicine for a prisoner therein, shall be fined not more than one hundred nor less than ten dollars, or imprisonment not more than thirty days nor less than ten days.

SEC. 6948. Whoever sells, or gives away, any spirituous, or malt liquors, on any election day, or being the keeper of a place where any liquors are habitually sold and drank, fails on any election day to keep the same closed, shall be fined not more than one hundred dollars, and imprisoned not more than ten days.

SEC. 6949. Whoever, being engaged in the manufacture and sale of intoxicating liquor, fails to brand on each package, containing the same, the name of the person or company manufacturing, rectifying, or preparing the same, and also the words "containing no poisonous drug, or other added poison," shall be fined not more than one thousand dollars, and imprisoned not more than six months nor less than one month.

SEC. 6950. Whoever adulterates except for medicinal purposes any spirituous or alcoholic liquors, by mixing the same with any substance, or sells or offers to sell any such liquor, knowing the same to be thus adulterated, or imports into this State, and sells or offers to sell, any such liquor knowing the same to be thus adulterated, and not inspected as required by law, shall be fined not more than five hundred dollars, and be imprisoned not more than thirty nor less than ten days.

SEC. 7410. No person shall be appointed to office at the penitentiary, or be employed thereat on behalf of the State, who is * * * * * * * * in the habit of using intoxicating liquors; and a single act of intoxication shall justify a removal or discharge.

SEC. 7135. The following form of affidavit in criminal proceedings, before justices of the peace or mayors under sections 6941, to 6948, inclusive, when applicable, but may be varied to suit the nature of the case, namely:

The State of Ohio,——County, s. s., before me, A. B. a justice of the peace for said county, [*or Mayor of, etc., as the case may be,*] personally

came C.D., who being duly sworn according to law, deposeth and saith, that upon or about the——day of———at the county of———aforesaid—— E. F., did sell intoxicating liquors to one G. H., to be drank in the place where sold, [*or to G. H., a minor, etc., or a person intoxicated, or in the habit of getting intoxicated, as the case may be.*] or is the keeper of a room or tavern, [*as the case may be,*] where intoxicating liquors are sold in violation of the law, and further saith not.

Signed, C. D.

Sworn to and subscribed, before me, this———day of———A. D.,——

A. B., Justice of the Peace, [or Mayor, ect.]

SEC. 3712. A judge of any court, sheriff, coroner, justice of the peace of the proper township, or the constables specially appointed, shall, upon view or information, without warrant, apprehend any person selling intoxicating liquors in violation of law, at or within two miles of the place where an agricultural fair is being held, and seize the booth, tent, wagon, carriage, stand, vessel or boat, at or from which such liquors are being sold, and convey the same to a place of safe keeping, and take the person so offending, before some officer having competent jurisdiction, together with an inventory of the things so seized, and the officer before whom such offender is brought, shall proceed forthwith to inquire into the truth of the accusation, and proceed as provided by law.

SEC. 3713. The articles so seized shall be bound for the payment of all fines and costs assessed against the accused in the proceeding, including the necessary expenses of seizing and detaining the same, and shall remain in the possession of the officer who makes the seizure until the determination of the prosecution, and may be sold on process issued therein against the accused.

SEC. 4330. Any person who sells, or offers to sell any spirituous liquors, not inspected as herein provided shall be fined in any sum not exceeding five hundred dollars, nor less than one hundred dollars, and imprisoned in the jail of the county not more than thirty, nor less than ten days.

The following sections from 4356 to 4364 are what is known as the Adair Law:

SEC. 4356. Whoever, by the sale of intoxicating liquors, contrary to law, causes the intoxication of another person, shall be liable for, and compelled to pay a reasonable compensation to any person who may take charge of, and provide for, such intoxicated person, and one dollar per day

in addition thereto, for every day such intoxicated person may be kept, in consequence of such intoxication, which sum may be recovered in a civil action, before any Court having jurisdiction thereof.

SEC. 4357. Every husband, wife, child, parent, guardian, employer, or other person injured in person or property, or means of support, by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall, after the giving and during the existence of the notice provided for in the next section, have a right of action in his or her name, severally or jointly, against any person or persons who, by selling or giving intoxicating liquors, have caused the intoxication, in whole or in part, of such person; and the owner of any building or premises, and the person renting or leasing the same, having knowledge that intoxicating liquors are to be sold therein, in violation of law, or having leased the same for other purposes, knowingly permit intoxicating liquors to be sold therein, that have caused the intoxication, in whole or in part, of such person, shall be liable severally or jointly with the person or persons selling or giving intoxicating liquor as aforesaid for all damages sustained, as well as exemplary damages.

SEC. 4358. Such husband, wife, child, parent, guardian, or other interested person liable to be injured by any sale of intoxicating liquors to any person, and desiring to prevent the sale of intoxicating liquors to such person, shall give notice either verbally or in writing, before a witness, to the person or persons so selling or giving the intoxicating liquors, or to the owner or lessor of the premises wherein such intoxicating liquors are given or sold, or file with the township or corporation clerk in the township or corporation wherein such intoxicating liquors may be sold, notice to all liquor dealers not to sell to such person any intoxicating liquors from and after ten days from the date of so filing such notice.

SEC. 4359. Such notice filed with such clerk, shall be entered by him in a book to be kept for such purpose, which shall be open for the inspection of all persons interested; and any notice entered in such book shall, by the officer having charge of the same, be erased and so obliterated as not to be legible upon the demand of the

person by whom such notice was filed, and thereafter such notice shall cease and end.

SEC. 4360. Such notice, whether served personally or filed with the clerk, as aforesaid, shall during its existence, inure to the benefit of all persons interested, the same as if a notice had been served by each; and if any clerk fail or refuse to make such record as herein provided, he shall be fined not less than five dollars, and the same shall work a forfeiture of his office.

SEC. 4361. A married woman shall have the same right to bring suits and control the same, and the amount recovered, as a *femme sole*; all damages recovered by a minor under this chapter shall be paid either to such minor, or to his or her parent, guardian, or next friend, as the court shall direct; the unlawful sale or giving away of intoxicating liquors shall work a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon premises where such unlawful sale or giving away takes place; and all suits for damages under this chapter shall be by civil action in any court having jurisdiction thereof.

SEC. 4362. A saloon keeper, grocer, or other person, who publishes the fact that any notice has been given, as provided in the foregoing sections, by posting such notices in any saloon, grocery, or other place, or by printing or causing the same to be printed in any newspaper, circular or in any other way gives publicity to the fact that such notice has been given, shall be fined not less than ten nor more than fifty dollars.

SEC. 4363. For all fines, costs, and damages assessed against any person, in consequence of the sale of intoxicating liquors, as provided in the foregoing sections, the real estate and personal property of each person, of every kind, without exception or exemption, except under section *fifty-four hundred and thirty*, and such fines, costs, and damages, shall be a lein upon such real estate until paid.

SEC. 4364. If a person rent or lease to another, any building or premises to be used or occupied, in whole or in part, for the sale of intoxicating liquors, or permits the same to be used or occupied, in whole or in part, such building or premises so leased, used or occupied, in whole or in part, such building or premises so leased, used or occupied, shall be held liable for, and may be sold

to pay all fines, costs, and damages, assessed against any person occupying the same; proceedings may be had to subject the same to the payment of any such fine and costs assessed or judgment recovered, or any part thereof, which remain unpaid, either before or after execution issues against the property of the person against whom such fine and costs or judgment have been adjudged or assessed; when execution issues against the property so leased or rented, the officer shall proceed to satisfy the same out of the building or premises so leased or occupied; if such building or premises belong to a minor, insane person, or idiot, his guardian having control thereof, shall be liable, and account to his ward for all damages on account of such use and occupation, and the liabilities for the fines, costs, and damages aforesaid; and all contracts whereby any building or premises are rented or leased, and the same used or occupied, in whole or in part, for the sale of intoxicating liquors, shall be void, and the lessor shall, on and after selling or giving intoxicating liquors as aforesaid, shall be considered and held to be in possession of such building or premises.

CHAPTER XXIV.

TAXATION OF LIQUORS, BRIEFLY CONSIDERED.

OWING to the increase of saloons in the cities and villages, by reason of the absence of any statute ordinances by which the sales of ale, beer, and wine can be restrained or prohibited, the question of taxing the business has received much consideration in the last few years, by thoughtful minds.

Many regard the question of taxation as being so nearly akin to that of license, that they cannot draw the line of distinction between them. The question of license or no license, was submitted to the electors of Ohio, in 1874, when the proposed new constitution was submitted. Thirty-three counties voted for license, and fifty-five

against. The whole vote of the State was: For license 172,252, against, 179,538. Had the question of taxing the business of liquor selling been directly submitted, at that time, giving authority to village and city councils to tax the business, it might have shared the same fate. But that is not known.

There was a movement made in Cincinnati, in the early part of 1879, led by Rev. J. M. Walden and others, favoring the question, and with a view of calling upon the Legislature for appropriate legislation upon the subject, a meeting was held in that city, and the question was discussed. A committee was appointed to wait upon the author of H. B. 619 then pending, with a view of securing an amendment to one of the sections of that bill, providing that when the result of the vote in any township should be in favor of the sale of intoxicating liquor, beer, ale, and wine, the business might then be taxed.

About that time, Mr. Dodds, one of the representatives from Hamilton county, introduced in the House of Repsentatives the following bill, known as H. B. 753:

"SEC. 1. Be *it enacted by the General Assembly of the State of Ohio*, That the councils of cities of the first class may provide by ordinance for imposing a tax upon the business of selling spirituous, vinous, and malt liquors, or either of them, and for the collection thereof, with proper penalties for non-payment.

"SEC. 2. This act shall take effect and be in force from and after its passage."

It was drawn so as to apply only to Cincinnati. It passed its first and second readings and through the appropriate committee, and came up in the House for a third reading on Febuary 28, and was discussed.

Pending the discussion, Mr. Townsend, of Athens, moved to amend it, so as to make its provisions apply to all the cities, incorporated villages and hamlets in the State, which was agreed to by yeas 36, nays 30.

A vote was afterward taken on the passage of the bill as

amended, which was disagreed to by yeas 44, nays 44, fifty-six votes being necessary to its passage.

Some of the best legal authorities in the State have decided that the constitution does not prohibit the levying of special taxes on any property, occupation, profession or calling. This question is not regarded as a temperance question by some, but a question of revenue.

Under the laws as they now are, ale, wine and beer are on the free list so far as their sale, or revenue therefrom is concerned. There is no revenue on the sale of whisky accruing to the State.

This question received considerable attention in the columns of the Cincinnati *Gazette* in October last. Many liquor sellers were interviewed and the result showed that they were about equally divided on the question, but the manufacturers were reticent.

In the interviews, Mr. Geffroy, of the Gibson House in Cincinnati, was reported as follows:

"'Tax them!" said he; "I am in favor of the biggest kind of a tax. I think the heavier the license the better. That (pointing to the bar-room) is the only curse of this house. You see I speak plainly, but I believe in telling the truth. I am in favor of a tax that would confine the business to those who are competent to control it. I am in favor of the Gibson, the Grand, the Burnett, and the Emery being taxed $1,500 or $2,000 a year, and the others in proportion, so that the necessary revenue may be raised out of a few, and the rest suppressed.'"

The editor of the Cincinnati *Gazette* addressed a letter to Messrs. Matthews, Ramsey and Matthews, attorneys of Cincinnati, on the question, asking for a legal opinion on the subject, and for which the *Gazette* paid them a fee. It elicited the following reply:

CINCINNATI, Oct. 25, 1879.

To the Editor of the Cincinnati Gazette:

In reply to your note, this date, we beg to advise you

that a law imposing a specific tax upon the business of selling intoxicating liquors would be constitutional.

Such a law would be a tax upon a business, and would not be a *license*. It would not be a tax upon *property*, and, therefore, would not be open to the objection of want of uniformity required by section 12, article 2, of the Constitution.

Such a tax should be imposed for special purposes (ex gr., police, prison, etc., purposes), and should set forth the objects distinctly, as required by section 5, article 12.

The principles upon which such tax could be sustained are set forth in the decision of the case of Meyer, Treasurer, vs. the Western Union Telegraph Co., 28th Ohio St. Rep., 521. Very truly yours,

MATTHEWS, RAMSEY & MATTHEWS.

This question is an open one as yet. It is a question that may yet claim the earnest thought of legislative bodies. The public mind is yet unsettled as to what is proper to be done. The government, by legislation regarded as legitimate by many, taxes the manufacture of liquor, and thereby derives a large revenue from it, and gives license to the seller at his place of business. Under it all, lies a larger question of public morals, which should interest every good citizen.

It would be gratifying to discuss this question much further, but it cannot be done within the limit of space here allowed.

CHAPTER XVII.

CONCLUSION.

AS said in the preface of this little book, its size was limited, that the price of it might be kept within the reach of any one who had a desire to read it. Its author has been desirous of affording an opportunity to any one interested, to know something of what has been said on the question of local option in Ohio, though meagre it

may be, and to afford an opportunity for information on the question of temperance legislation. There are many points he desired to discuss that have not been touched upon.

In the Appendix, annexed, there is published the full text of the Remonstrance of the Ohio Liquor Dealers' Protective Association, and the "Eylar Bill" of last winter, which met with some favor at the time, but which was permitted by its author to sleep in the arms of the temperance committee, the sleep of death.

There also will be found the full text of the Pennsylvania Local Option License Statute, passed March 27, 1872, and afterward repealed by the liquor power of that state.

Also the full texts of the "Thompson Bill," allowing women the right of petition, and the "Stewart Bill," both of which were reported to the Mass Convention that met at Columbus, January 1, 1880, the latter by a majority report, the other by a minority report of the committee appointed to draft a bill, and both of which, after much discussion in the convention, were referred to a committee to report to the Legislature. Neither of these bills have at the present writing been introduced in the legislature, consequently are not pending. They are given here for the information of such as may be interested.

H. B. No. 114, now pending in the Legislature, before the committee on temperance, is not given, for the reason that it is the same as H. B. 619, of last year, (known as the Quinby Bill,) except that it permits sales of wine for sacramental, and liquor for mechanical purposes. It is now known as the Bishop Bill, having been introduced in the House by the representative from Clermont county. The text of it will be found on page twelve of this work.

If the temperance people of Ohio expect to secure additional temperance legislation, it is very desirable, if not absolutely essential that they should be practically united in their demands. That there are grievances of the people,

from the terrible evils of intemperance that need redress, no well informed person can longer question. But so long as there is discord, dissensions and bickerings among them as to what form of legislation is needed, who can hope for success? Some seem unwilling to have anything less than entire prohibition at one step, forgetting, apparently, that almost all reforms in legislation are brought about step by step.

Could a local option temperance law be secured for the townships, leaving it to the people of the townships to call it into operation and enforce it, who can doubt that the consequent agitation of the question would tend very largely to educate the people thereon, and create a healthly growth of sentiment toward final prohibition.

Why load down local option with any other question? Let all the temperance people unite upon that platform, and make one united, earnest effort, and their demands will be heeded.

APPENDIX.

A Bill proposed by Hon. G. T. Stewart, and adopted as the Majority Report of the Committee on Bills of the Mass Convention, held at Columbus, January 1, 1880:

THE HOME PROTECTION LAW.

An Act to protect the homes of the people, and to provide against the evils resulting from the traffic in intoxicating liquors.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be lawful for all citizens of this State, without distinction of sex, having the qualifications of electors for the State and County officers, except that that there shall be no disqualification therein because of sex, to meet where they severally reside, on the first Monday of May, A. D. 1880, at the usual places of holding elections there, for State and County officers, and to vote for or against, the legal suppression of the traffic in intoxicating liquors for use as a beverage; and at such special election, all voting in favor of such suppression of said traffic, shall have printed or written upon their ballots, the words, "*Home Protection Against the Evils of the Liquor Traffic, Yes;*" and those voting against such suppression of said traffic, shall have printed or written upon their ballots, the words, "*Home Protection Against the Evils of the Liquor Traffic, No;*" and if, at said special election, a majority of the votes so cast in this State, shall be so given in favor of said suppression of the liquor traffic, then it shall be unlawful, in every part of this State, from and after the fourth day of July, A. D. 1880, to sell, barter, give, buy or procure for, or furnish to, any person or persons, any intoxicating liquor, except as authorized and provided for by this act.

And if at said special election, a majority of the votes so cast in this State, shall not be in favor of such suppression of the liquor traffic, but in any county, or counties, a majority of the votes there cast shall be so given in favor of such suppression of the liquor traffic, then in all said county or counties, so voting in favor of such suppression, it shall be unlawful under the provisions of this act, to sell, barter, give, buy, or procure for, or furnish to any person or persons, any intoxicating liquor, except as authorized and provided for by this act.

And if at said special election, a majority of the votes so cast in any county and counties, shall be against such suppression of the liquor traffic, but in any township, city, incorporated village, ward, or voting precinct, where such election is held, in the said last mentioned county or counties, a majority of voters there cast shall be so given in favor of such suppression of the liquor traffic, then in every such township, city, incorporated village, ward or voting precinct, so voting in favor of such suppression of the liquor traffic, in each aud all of said last mentioned county or counties, it shall be unlawful under the provisions of this act, to sell, barter, give, buy or procure for, or furnish to any person or persons any intoxicating liquor, except as authorized and provided for by this act.

SEC. 2. That official proclamation and advertisement of said special election shall be given by the Sheriffs of all counties in the State, for the same time and in the same manner as for the election of State and County officers; and said election shall be conducted by the same judges and clerks and in the same manner as the latter, and shall be subject to all requirements and penalties of the law now in force regulating the election of State and County officers, in the charge of the ballot boxes, the receiving, counting, return and record of the votes, and payment of the expenses thereof, and in all other respects, so far as applicable, except that no person shall be debarred from voting at the same because of sex.

SEC. 3. All distilled and spirituous liquors, ale, porter, strong beer, lager beer, fermented wine, fermented cider, cordial, bitters and other liquors containing alcohol, by whatever name or description known, shall be considered intoxicating liquors within the meaning of this act; and the same term shall be held to include all mixed liquor of which part is intoxicating.

SEC. 4. The trustees of any township, for said township, or any part thereof, not included within the incorporated limits of a city or incorporated village, and the Mayor and council of any city, or incorporated village where said traffic is by said vote so suppressed, may on the first Monday of June annually, or so soon thereafter as may be convenient, purchase such quantity of pure and unadulterated intoxicating liquors as they may deem necessary, to be sold strictly under and in pursuance of the provisions of this act; and they shall appoint some suitable person as the agent of said township, city, or village, to sell the same at some convenient place within said township, or part thereof, city or village, to be used for manufacturing, mechanical, scientific, and medicinal purposes, and no other; and no intoxicating liquors, shall be at any time or place, purchased or procured, sold or furnished therein, except for or by the said agent; and such agent shall receive such compensation for his services, and in the sale of such liquors, shall conform to such regulations, not inconsistent with law, as the board appointing him shall prescribe; and he shall hold his appointment one year, unless sooner removed by them or their successors in office. Vacancies occuring during the year shall be filled in the same manner as such original appointments are made. No such agent shall have any interest in said liquors, or in the profit of the sale thereof.

SEC. 5. Such agent shall receive a certificate from the board by which he is appointed, authorizing him as the agent of such township, city, or village, to sell intoxicating liquors in such township or part of township, city, or village, for manufacturing, mechanical, scientific, and medicinal purposes only; but such certificate shall not be delivered to the person so appointed until he shall have executed and delivered to said board a bond, with two good and sufficient sureties to be approved by said board in the sum of not less than one thousand dollars, in substance as follwos:

Know all men, that we ————————, as principal, and ————————, as sureties, are held and firmly bound unto the city, (or incorporated village, or trustees of the township of) ————————, in the sum of ———— dollars, to be paid to said obligee (or obligees), and to which payment we bind ourselves, our heirs, executors and administrators firmly by these presents. Signed, sealed with our seals, and dated this — day of ——, A. D. ———.

The conditions of this obligation are such that, whereas, the above named ———————— has been duly appointed an agent for the said township, (city or village,) to sell intoxicating liquors for manufacturing,

mechanical, scientific and medicinal purposes and no other, until the — day of ——, A. D. ——, unless removed from said agency. Now if the said————————, shall in all respects conform to the provisions of the law relating to the business for which he is appointed, and to such regulation as now are, or shall be from time to time, established by the board making his appointment, then this obligation shall be void but otherwise shall remain in full force. (Seal and Signatures.)

The trustees of any township, and the Mayor and council of any city or village, to whom such bond is given, for any breach thereof, shall cause a suit to be commenced and prosecuted to final judgment, unless paid in full with costs.

SEC. 6. Said agent shall keep a book and enter therein the date of every sale made by him, the person to whom sold, the kind, quantity and price thereof, and the purpose for which it was sold, which book shall at all times within the usual hours of business, be open for public inspection. Whoever purchasing such liquor of said agent, intentionally makes a false statement as to its purpose or use, shall for the first offense be fined not less than twenty nor more than one hundred dollars, and for the second and every succeeding offense, shall be so fined and also imprisoned not less than ten nor more than thirty days.

SEC. 7. Whoever by himself or his clerk, servant, agent, or employee, directly or indirectly, sells, barters, gives away, buys or procures for, or furnishes to any person or persons, any intoxicating liquor, except as authorized and provided for by this act, shall for the first offense, be fined not less than twenty nor more than one hundred dollars; and for the second offense shall be so fined, and shall also be imprisoned not less than ten nor more than thirty days, and for the third offense, shall be so fined, and also imprisoned not less than thirty days, nor more than three months.

SEC. 8. Whoever, by himself, or his clerk, servant, agent or employee, is a common seller of intoxicating liquors, except as authorized and provided by this act, or keeps any place where the same are sold, bartered, given, or furnished in violation of this act, or being the owner of such place, knowingly permits such offense, shall be fined not less than fifty dollars, nor more than two hundred dollars, and shall be imprisoned not less than twenty nor more than sixty days, and on such conviction of the keeper or owner of such place, the Court, as part of the sentence, shall order said place to be shut up and abated as a common nuisance.

SEC. 9. Whoever, by his clerk, agent, or employee, or by himself in the employment of, or on the premises of another, keeps, or being the owner thereof knowingly permits to be kept, any building, room, or place called a club room, or by any other name, and which is or shall be used as the resort of two or more persons for drinking intoxicating liquors, as a beverage, except his private dwelling, or rooms occupied by his family; or whoever shall bring into this State, or carry from place to place within the State, any intoxicating liquor, with intent to sell or dispose of the same, by himself, or to have the same sold or disposed of by any other person or persons, or in violation of this act, or having reasonable cause to believe that the same is intended to be thus sold or disposed of, shall for the first offense be fined not less than twenty dollars, nor more than a hundred dollars; and for the second offense, shall be so fined and also be imprisoned not less than ten nor more than thirty days.

SEC. 10. Whoever shall deposit, or have in his possession, at any place, any intoxicating liquor, with the intent to sell the same, or with intent that the same shall be sold by any person, or to aid or assist any person in such sale, in violation of this act, shall for the first offense, be fined

not less thad ten nor more than fifty dollars; and for a second offense, shall be so fined, and imprisoned not less than ten nor more than thirty days.

SEC. 11. If any prosecuting attorney, justice of the peace, mayor, or judicial, police or other officer, having knowledge or notice of any previous conviction of any person accused of violating the provisions of this act, and being charged with the duty of preparing any complaint, information, warrant, or indictment against such person, shall fail to allege such previous conviction thereon; or after an information filed or indictment found in any Court, if the prosecuting attorney shall enter *nolle prosequi*, dismiss, or fail to prosecute the same except by special order of the Court; or if any officer charged with any duty under this act shall fail to perform the same; such prosecuting attorney, justice of the peace, mayor, judicial, police, or other officer, shall be fined not less than twenty nor more than one hundred dollars.

SEC. 12. No person engaged in the unlawful traffic in intoxicating liquors shall be competent to sit in any jury upon any case arising under this act; and when information shall be communicated to the Court, that any member of any panel is engaged in such traffic, or that he is believed to be so engaged, the Court shall inquire of the juryman of whom such belief is entertained, as to the fact, and no answer which he shall make shall be used against him in any case arising under this act; if he answers falsely, he shall be incapable of serving on any jury in this State; but he may decline to answer, in which case, he shall be discharged by the Court from all further attendance as a juryman.

SEC. 13. Whenever an unlawful sale is alleged, and a delivery is proved, of intoxicating liquors, it shall not be necessary to prove a payment, but such delivery shall be sufficient evidence of sale. A partner in business shall be liable for the unlawful keeping or selling of his co-partner done in the co-partnership business, or by any other person, in any shop, store, or other place of business, of such co-partnership, with his knowledge or assent. A principal and his agent, clerk, servant and employee, and a landlord and his tenant, may all be included in the same complaint, indictment, information, and process.

SEC. 14. If any person is found in a state of intoxication, he shall be taken into custody, with or without a warrant, by any sheriff, constable, or police officer, and shall be detained in some proper place, until in the opinion of such officer, he is so far recovered from his intoxication as to render it proper, when such officer shall take him before some justice of the peace, mayor or police magistrate in the place where he has been found, and shall there make a complaint against him for said offense of drunkenness; and if such person then discloses fully the name or names of the person or persons of whom, and the time, place and manner, in which the liquor causing his intoxication, was procured, on oath administered to him by such justice, mayor, or magistrate, and who shall inquire of him as to all the facts; and if it appears from such examination that an offense has been committed under the provisions of this act, such officer shall file and prosecute his complaint before such justice, mayor, or magistrate, against the person or persons who appear to have been guilty thereof, and said complaint of drunkenness shall be discontinued; but if the person so arrested shall refuse to disclose said names and facts, said officer shall proceed with said complaint against him for drunkenness, according to law.

SEC. 15. All intoxicating liquors kept for sale, and the implements and vessels used in selling and keeping the same, contrary to this act, are declared to be common nuisances; and shall be *prima facie* evidence

of unlawful sale, against any person or persons in whose possession they are found.

SEC. 16. The form of affidavit in section 7135, of the Revised Statutes of Ohio, when applicable, shall be sufficient in criminal proceedings under this act, before justices of the peace, mayors and police magistrates, but may be varied to suit the nature of the case; and said justices, mayors and magistrates, shall issue warrants to search any house or place, for intoxicating liquors, kept or concealed for purposes contrary to this act; but there must be first filed with such officer, an affidavit, particularly describing the house or place to be searched, the person to be seized, if an arrest is to be made, and that the affiant believes, and has good reason to believe, that intoxicating liquors are there kept or concealed, for purposes contrary to law.

Such warrant shall be substantially in the form and shall be executed and returned, and the liquors found shall be disposed of as provided in sections 7123, 7124 and 7125, of the Revised Statutes of Ohio; and when proved to have been kept or concealed for illicit purposes, the liquors shall be destroyed, under the direction of the Court.

SEC. 17. Prosecutions under this act shall be by complaint before the police magistrate, mayor of the city or village, or any justice of the peace of the county where the offense was committed, or by indictment, or information in the proper Court of the county having jurisdiction in criminal cases; und such magistrate, mayor, or justice, on said complaint may proceed to final sentence and execution.

SEC. 18. For all penalties and costs assessed against any person orpersons, for the violation of this act, the real estate and personal property of such person or persons, of every kind without exemption from execution, shall be liable for the payment thereof, and the same shall be a lien upon such real estate from the date when rendered, until paid.

If any person shall rent or lease any building or premises to be used or occupied in whole or in part, for the sale of intoxicating liquors, or shall permit the same to be used or occupied, in whole or in part, such building or premises shall be held liable for, and may be sold to pay, all fines and costs assessed against the person or persons so using or occupying the same, either before or after execution against the property of such person or persons; and when execution or other process shall issue against the property so leased or rented, the officer holding the same, shall proceed to satisfy it out of said property; and in case such building or premises, belongs to a minor, insane person or idiot, the guardian of such, having control of said property, shall be liable, and shall account to his or her ward for all damages resulting from such use and occupation of the same; and all contracts whereby any building or premises shall be rented or leased and the same shall be used or occupied in whole or in part, for the sale of intoxicating liquors in violation of this statute, shall be void. and a transcript of any judgment for fines and costs assessed by any justice of the peace, mayor, or police magistrate, under this act, may be filed in the office of the Clerk of the Court of Common Pleas of the county, where the same is rendered. and shall become a lien on all real estate, within such county, of the person or persons against whom the same is rendered, as now provided by law in civil cases.

SEC. 19. This act shall not be construed to repeal or affect any general or special law in force, prohibiting the sale of intoxicating liquors.

SEC. 20. This act shall take effect and be in force immediately after its passage.

The following is a Bill prepared by the Hon. Judge Thompson, and adopted as the minority report of the Committee on Bills, of the Mass Convention, held at Columbus, January 1, 1880:

A BILL

To Regulate the Sale of Intoxicating Liquors in the State of Ohio.

SECTION 1. Be it enacted by the General Assembly of the State of Ohio, That it shall be the duty of the Probate Judge in each county of this State, upon a written petition signed by at least thirty of the lawful resident adult, male and female citizens of the State over the age of twenty one years, in any Township, Incorporated Village, Town, Ward, or City, in this county, to make an order on the journal or his court, directing that the Trustees and Clerk in said Townships, or the Mayor and Council and Clerk of any Incorporated Village, Town or City shall give notice by publication in two newspapers in general circulation in said county, at least ten days before the first Monday in May,—of each succeeding year after the passage of this act, that on said first Monday in May they shall receive at their respective offices, or places of doing business, written or printed petitions from lawful resident, male or female adult citizen over twenty-one years of age, of said Townships, Incorporated Villages, Towns, Wards or Cities, upon the question of the sale of, or the prohibition of the sale thereof, in such Townships, Incorporated Villages, Towns, Wards or Cities, except for medicinal, mechanical, art and sacramental purposes, of all Spirituous, Vinous or Malt Liquors.

SEC. 2. It shall be the duty of the Township, Village, Town, or City officers named above on the first Monday in May following the giving of such notice, between the hours of 6 A. M. and 6 P. M. on said day, to receive from the male and female citizens, over the age of twenty-one years, who are lawful residents in the Townships, Villages, Towns, Wards or Cities, either their joint or several written or printed petitions, which petitions shall be in the following form, to-wit:—

To————————(Trustees of Townships, or Mayor and Council of Incorporated Villages, and Cities.) We, the undersigned, lawful residents, male and female citizens over the age of twenty-one years, of———————— (Township, Village, Town or City,) on the question of the sale of, or the prohibition of the sale of Spirituous, Vinous and Malt Lixuors, do hereby declare "Yes" for the sale, or "No" against the sale.

SEC. 3. Said petitions when received by said Trustees or Municipal officers, shall be marked "filed," and attested by Township, Town, Village, or City Clerk, as received and filed, on the day and year aforesaid, and shall be forthwith enclosed in a sealed envelope, in the presence of the Trustees or Municipal officers, and delivered within three days after the time of receipt thereof, to the Probate Judge of the County wherein signed, directed and endorsed on the face of said envelope as follows: "To the Probate Judge of————————County, State of Ohio, 'Petition of citizens of ————————, State of Ohio, on the sale of, or prohibition of the sale of, Spirituous, Vinous, and Malt Liquors,'" and the Probate Judge, on the receipt of such petitions, shall endorse the same "filed" on the day of their receipt.

SEC. 4. That it shall be the duty of the probate Judge, to whom such petitions are returned, within ten days after their receipt, to call to his assistance a Justice of the Peace, who, together with said Probate Judge, shall open the envelopes containing said petitions, and in the presence

of the public count the names of the petitioners thereon, and continue such count from day to day until the count of the petitioners from the county in which he presides shall be completed, and if it shall appear from such count that a majority of the names of all the petitioners who have signed, of any Township, Town, Village, Ward or City, shall be in favor of the prohibition of the sale of all Spirituous, Vinous or Malt Liquors, except for medicinal, mechanical,art, or sacramental purposes, such fact shall be certified by the Probate Judge and Justice of the Peace, and such certificate shall be entered upon the journal of said Probate Court, and thereupon such prohibition shall become absolute therein.

SEC. 5. If any male or female person shall sign said petition, who is not a lawful adult citizen of the State, over the age of twenty-one years, in any Township, Incorporated Village, Town, Ward or City, in which he or she has not a lawful residence, such persons shall be subject to the sume penalties attatched to the violation of the Election Laws of the State.

SEC. 6. That from and after the entry of the certificate on the journal of the Probate Court, as provided in the foregoing section, it shall be unlawful for any person to Sell, Barter, Give away, or to Expose for sale in any way, or at any place, any Spirituous, Vinous or Malt Liquors, in any Township, Incorporated Village, Town, Ward or City, to any person, and any one who shall so Sell, Barter, Give away, or Offer any such Liquors, except for medicinal purposes, on a prescription issued by a graduated practicing physician, or for legitimate, mechanical, art, or sacramental purposes, shall be deemed guilty of a criminal offense, and be prosecuted by information or indictment, in such form and manner as is prescribed by the Criminal Code of Ohio, for other criminal offenses against the laws, and upon conviction, be fined not less than fifty nor more than two hundred dollars, and be confined in the county jail not less than ten days; nor more than thirty days, and no physician shall make or sign any such prescription except the person for whom it is made is actually sick, and such liquor is absolutely required as a medicine; and any physician who makes or signs any prescription for such liquors, except as provided for in this act, shall be guilty of a violation of this act, and on conviction, fined fifty dollars for each offense.

SEC. 7. The necessary expense for carrying out the provisions of this act shall be paid by the municipal authorities in Incorporated Towns, Villages or Cities, and by the Trustees of townships in which the provisions of this act are availed of, from the several municipal or township funds, and all officers of the law and publishers of notices, for their services under this act, shall be allowed such fees as are allowed by law for similar services.

SEC. 8. This act shall be enforced from and after the date of its passage.

H. B. No. 739, proposed by Mr. Eylar, of Adams, to the Sixty-third General Assembly of Ohio, but which never came to a vote:

A BILL

To regulate the sale of intoxicating liquors.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be the duty of the probate judge in each county of

this State, upon a written petition, signed by at least————of the legal voters in any township, incorporated village, ward, or city in his county, to make an order on the journal of his court, directing that the judges of election in said township, incorporated Village, ward, or city, open a poll in said township, incorporated village, ward, or city, at the next regular spring or fall election for the election of municipal and township officers, or state and county officers, for the purpose of taking the sense of the legal voters in said township, incorporated village, ward or city upon the question whether or not spirituous, vinous, or malt liquors shall be sold therein.

SEC. 2. It shall be the duty of the probate judge making such order to cause the same to be published in some weekly or daily paper published in the county, for at least two weeks prior to such election, and also to advertise the same by written or printed hand-bills, posted in at least five conspicuous places in said township, incorporated village, ward, or city, all of which shall be done at the expense of said township, incorporated village, ward, or city in which such vote is to be taken.

SEC. 3. Such election shall be held in the same manner, and under the sane regulations, as control other elections. Each voter, who may vote on the question, shall have upon his ballot, written or printed, the words: "For the sale of intoxicating liquors—Yes"; or, "For the sale of intoxicating liquors—No."

SEC. 4 The polls of said election shall be counted and certified as other polls in said election, and shall be returned to the probate judge of said county in which election has been held, within two days from the time of such election.

SEC. 5. That it shall be the duty of the probate judge, to whom such polls shall be returned within ten days, to call to his assistance a justice of the peace, who, together with said probate judge, shall open said return and determine the result of said election; and, if it shall appear that a majority of all the votes cast at said election shall be in favor of the prohibition of the sale of spirituous, vinous, or malt liquors, such fact shall be certified by the probate judge and justice of the peace, and such certificate shall be entered upon the journal of said probate court; and, thereupon, such prohibition shall become effectual.

SEC. 6. That from and after the entry of the certificate on the journal of the probate court, as provided for in the foregoing section, it shall be unlawful for any person to sell any spirituous, vinous, or malt liquors in the said township, incorporated village, ward, or city, to any person; and any person who sells any such liquors in said township, incorporated village, ward, or city, shall be prosecuted in the proper court, by information or indictment, and, upon conviction, be fined not less than twenty-five dollars nor more than one hundred dollars, and be confined in the jail of the county not less than ten days or more than thirty.

SEC. 7. The provisions of this act shall not apply to any manufacturer or wholesale dealer, who, in good faith, and in the usual course of trade, sells by the wholesale, nor to druggists who sell for medicinal purposes, on a prescription made and signed by a regular practicing physician; but no physician shall make or sign any such prescription except the person for whom it is made is actually sick, and such liquors are absolutely required as a medicine; and any physician who makes or signs any prescription for such liquors, except as provided for in this act, shall be guilty of a violation of this act, and, on conviction, fined twenty-five dollars for each offense.

SEC. 8. That not more than one vote shall be taken upon the propositions as provided for by this act, oftener than once in two years.

SEC. 9. This act to be in force from and after its passage.

PENNSYLVANIA LOCAL OPTION LAW. 2 VOL. PENN. STATUTES P. 956, PASSED MARCH 27, 1872.

SEC. 1. On the third Friday in March, 1873, in every city and county in this commonwealth, and at the annual municipal elections every third year thereafter, in every such city and county, (it shall be the duty of the inspectors and judges of elections in the cities and counties, to receive tickets either written or printed, from the legal voters of said cities and counties, labled on the outside "licensed," and on the inside, for license or against license, and to deposit said tickets in a box provided for that purpose by said inspectors and judges, as is required by law in the case of other tickets received at said election; and the tickets so received shall be counted, and a return of the same made to the clerk of the court of quarter sessions of the peace of the proper county, duly certified as is required by law; which certificate shall be laid before the judges of the said court, at the first meeting of said court after said election shall be held, and shall be filed with the other records of said court; and it shall be the duty of mayors of cities, and sheriffs of counties, or of any other officer, whose duty it may be to perform such services, to give due public notice of such special election above provided for, three weeks previous to the time of holding the same, and also three weeks before such election every third year thereafter: *Provided*, that this act shall not be constructed to repeal or affect any special law prohibiting the sale of intoxicating liquors, or prohibiting the granting of license; *Provided*, that when the municipal and township elections in any county or city do not occur on the third Friday in March, the election provided for in this section shall be held on the day fixed for the municipal elections in said county; *And Provided* further, that all licenses granted after the first day of January, 1873 shall cease, determine and become void on the first day of April, 1873, if the district for which they are granted determines against the granting of license; and the treasurer of the proper county shall then refund, to the holder of such license, the moneys so paid therefor, for which the said treasurer shall be entitled to credit in his accounts with the commonwealth.

SEC. 2. In receiving and counting, and in making returns of the votes cast, the inspectors and judges, and clerks of said election shall be governed by the laws of this commonwealth regulating general elections; and the penalties of said election laws are hereby extended to, and shall apply to the voters, inspectors, judges and clerks, voting at, and in attendance upon elections held under the provisions of this act. Whenever, by the returns of elections in any city or county aforesaid, it shall appear that there is a majority against license, it shall not be lawful for any court or board of license commissioners to issue any license for the sale of spirituous, vinous, malt or other intoxicating liquors, or any admixture thereof, in said town or county, at any time thereafter, until at an election as above provided, a majority shall vote in favor of license. *Provided*, that nothing contained in the provisions of this act shall prevent the issuing of license to druggists for the sale of liquors for medicinal and manufacturing purposes; *Provided*, the citizens of the borough of Lebanon shall vote upon the question on the third Friday of March 1873, on the same day and time when the townships of the county of Lebanon hold their spring election.

The following is the Remonstrance of the Ohio Liquor Dealers' Association, sent to the Sixty-third General Assembly while the Quinby Bill was pending:

HALL OF THE PROTECTIVE LEAGUE, COR. LAKE AND ONTARIO STS
CLEVELAND, OHIO, March 5th, 1879.

To the Honorable, the Speaker of the House of Representatives and the Members thereof, Greeting:

GENTLEMEN—The Ohio Liquor Dealers' Association in convention assembled this day passed most unanimously the following resolutions:

WHEREAS, bills are now pending in the Legislature, purporting to incorporate the so called Option Law principle into the laws of our State, therefore be it hereby

Resolved, That the passage of any law establishing discrimination between the several branches of industry and commerce is detrimental to the best interests of the people, and in contradiction to the express provisions and spirit of our constitution.

Second. That the bills above referred to, deferring the question in regard to and relating to the right to sell liquor in the respective townships is wrong in principle, and destructive to the personal right of the people who may be in the minority in such townships.

Third. That the right of property of persons engaged in the manufacture or sale of wine, beer and liquor, would be left to the mercy and good-will of the majority of voters of townships, contrary to the provisions of our constitution, and contrary to the principles of right and justice.

Fourth. That the principle sought to be established by the bills referred to involves the power of the majority of votes of a township to suppress the rights and jeopardize the property of the minority; tending to destroy the harmony and good feeling of the people of such townships, and to create and call forth constant strife and collisions.

Fifth. That all legislation, by which the casual majority of the voters of any of the townships of the State, are made the final judges of grave and important questions of a general character, is repugnant to any and all principles of a Republican Government.

Sixth. That experience has shown, that in all States wherein the option law principle has become incorporated into a law, the cause of temperance has not been promoted; but on the contrary such so called option laws have always and continually proven a prolific source of demogogical schemes and plunder, at the cost and expense of the people at large.

Seven. That none of the laws heretofore enacted, or now existing on our statute books have been subject to such earnest and grave objections, as the option laws which are subversive of public policy and all principles of State government alike, aside from their pernicious and ruinous effect upon the peace, harmony and the best interests of the people.

Eighth. That our Representatives and Senators in the General Assembly, are respectfully requested to withhold their assent to the so-called Option Bills, and that they be further requested to conscientiously do all in their power to prevent the passage of any and all Option Bills.

On behalf of the instruction received by and through the officers and members of the Ohio Liquor Dealers' Protective Association.

C. C. SCHELLENTRAGER, Secretary.